HSITORY
OF
INDIGO DISTURBANCE,
IN
BENGAL.

WITH

A FULL REPORT OF

THE NIL DURPAN CASE.

COMPILED BY

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N. B.—Unfortunately there are some printin mistakes, but these are so patent that they need not be mentioned separately. Of them three are misleading and they have been corrected below.

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7	3	V	VI
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TO

The Sacred Memory

OF

DINÓBANDHU MITRA

Rai Bahadur,

THESE PAGES

ARE DEDICATED BY

HIS SON

LALIT CHANDRA MITRA

The Hon'ble Mr. C. E. Buckland C.I.E. in his excellent book—"Bengal under the Lieutenant-Governors," has described, what he calls the 'Indigo Disturbances' in Bengal, in a few pages. These gave me the first incentive to compile a fuller history of the subject. I take this opportunity of acknowledging my gratitude to the Hon'ble gentleman both for the title of the Book and the preliminary materials. Since then I have collected other materials which throw light on the subject in its three-fold aspects. These consist in the policy of the Government and the complaints of the ryots and the Indigo Planters respectively. The Books, Pamphlets and Periodicals consulted may accordingly be grouped thus ;—

I. (a) "Selections from the Records of the Government of Bengal No. XXXIII. Parts I, II and III.—Papers relating to Indigo Cultivation in Bengal."

(b) Report of the Indigo Commission.

II. (a) Volumes of the *Hindoo Patriot* for 1861 and 1862.

(b) "*Strike But Hear.*"

III. (a) Volume of the *Bengal Hurkaru* for 1861,

(b) *Brahmins and Pariahs.*

Incidentally I have looked into other books and these have been mentioned in proper places. The

Report of the *Nil Durpan Case* has been taken from the *Bengal Harkaru* with slight changes of arrangement to keep up continuity of narration.

I am greatly obliged to my most esteemed friend Babu Mohini Mohan Chatterjee M.A., B.L., Attorney-at-Law, for having gone through these pages in proof, and helping me with his corrections.

My object in the present publication is not to rake up an old quarrel, but to lay before the public a more detailed account of an important Chapter in the History of Bengal already broached by a Government Officer of the exalted position of the Hon'ble Mr. C. E. Buckland. How far I have succeeded in my humble attempt, I leave it to the public to judge.

The "Dina Dham."
Calcutta.
March 31st 1903.

} LALIT CHANDRA MITRA.

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APPENDIX.



INDIGO DISTURBANCE

IN

BENGAL.

CHAPTER I.

EARLY HISTORY.



IT is difficult to fix the date when indigo was first cultivated in India, but it appears from records—

"Indigo, from the earliest ages, has been well known as an indigenous product of India. Brought thence to Europe, as a favourite dye and prized article of Commerce, it derived, according to ancient classic authors, its name of *Indicum*, from the country in which it grew."

It further appears that—

"In the year 1600, Indigo was the main staple by which the East India Company made their profits, and that for many years they fostered the trade and made it what it is; at one period it was found to grow better in the West Indies; and after carrying on the trade for a century, the East India Company gave up Indigo as an article of investment in favour of the West India Colonies; but in the West Indies it was found to be less profitable than other crops, and was given up and again taken up by the East India Company who having lost £ 80,000 in the year 1779 by contract, magnanimously made it over to their servants and to private traders. The East India Agents being unable to advance money to enable the settlers to carry on the trade, the East India Company therefore with a view of fostering and encouraging

the cultivation of indigo in India, advanced to the Indigo planters at various times no less than a million of money. It is to their special protection that the trade in Indigo is to be attributed and not to private capitalists."

But no sooner did the cultivation of indigo by private capitalists, in the interior of the country, commence than acts of violence were resorted to. Sir Ashley Eden in his evidence before the Indigo Commission gave a list of heinous cases, connected with the cultivation, which occurred previous to the year 1810. Sir John Peter Grant also writes to show the early oppression of, the planters.

"In the year 1810, the licenses granted to four planters to reside in the interior of the country were withdrawn, on account of the severe ill-usage of the natives, proved against them; and the Governor-General-in-Council found it necessary to issue a Circular in that year, of date the 13th of July, from which the following is an extract:—

The attention of Government has recently been attracted in a particular manner, to abuses and oppressions committed by Europeans, who are established as indigo-planters in different parts of the country. Numerous as those abuses and oppressions have latterly been, the Right Hon'ble the Governor-General-in-Council, is still willing to hope that this imputation does not attach to the characters of the indigo-planters generally, considered as a body or class of people. The facts, however, which have recently been established against some individuals of that class before the Magistrates, and the Supreme Court of Judicature, are of so flagrant a nature, that the Governor-General-in-Council considers it an act of indispensible public duty to adopt such measures as appear to him, under existing circumstances, best calculated to prevent the repetition of offences equally injurious to the English character and to the peace and happiness of our native subjects.

The offences to which the following remarks refer, and which have been established beyond all doubt or dispute against individual indigo-planters, may be reduced to the following heads:

1st,—Acts of violence, which, although they amount not in the legal sense of the word to murder, have occasioned the death of natives.

2nd,—The illegal detention of natives in confinement, especially in stocks, with a view to recovery of balances alleged to be due from them or for other causes.

3rd,—Assembling in a tumultuary manner, the people attached to their respective factories, and others, and engaging in violent affrays with other indigo-planters.

4th,—Illicit infliction of punishment, by means of a *rattan* or otherwise, on the cultivators or other natives."

The Magistrates were directed by the same Circular to cause stocks kept by planters to be destroyed; to report to Government cases of illegal corporal punishment, not sufficient to warrant a commitment, to the Supreme Court; and to impress on all Europeans who wished to continue to reside in the country, the necessity of abstaining from illtreatment of the people.

In a subsequent Circular, of the 22nd of July 1810, Magistrates were directed to report all proved instances of planters who were convicted of "obliging the *raiyats* who reside in the vicinity of their respective factories to receive advances, and of adopting other illicit and improper means to compel them to cultivate indigo"; the Governor-General-in-Council observing that he had reason to believe that this was a "habit" of the planters."

Lord Macaulay observed with reference to the early oppression as follows—

"That great evils exist, that great injustice is frequently committed, that many ryots have been brought, partly by the operation of the law, and partly by acts committed in defiance of the law, into a state not very far removed from that of predial slavery, is I fear, too certain."

It is, thus, a painful to observe that notwithstanding the fostering care of the benevolent Government, that "habit" continued for nearly half a century and the fourfold

catalogue of crimes was only supplemented by the addition of others of a more heinous nature.

Mr. E. De-Latour of the Bengal Civil Service who was Magistrate of Furridpore in 1848, said before the Commission—

"There is one thing more I wish to state; that considerable odium has been thrown on the Missionaries for saying that—"not a chest of indigo reached England without being stained with human blood." That has been stated to be an anecdote. That expression is mine, and I adopt it in the fullest, and broadest sense of its meaning, as the result of my experience as Magistrate in the Fureedpore district. I have seen several ryots sent into me as a Magistrate, who have been speared through the body. I have had ryots before me who have been shot down by Mr. [illegible]de (a planter). I have put on record, how others have be[illegible]urs[illegible] speared and then kidnapped; and such a system of carrying on indigo, I consider to be a system of blood-shed."

Before proceeding any further with the tale of misery, we describe here, in the words of the Report of the Indigo Commission, the systems of cultivation that were prevalent in Bengal—

"The indigo cultivation may be classified under two great heads, the *nij-abad* and the *ryotti*. The former or "own cultivation" may be likened in some respects, to a home farm, managed by the proprietor of an estate in England. It is carried on, on lands of which the factory or Concern has acquired the tenant right, or the right of actual occupancy, by an establishment of ploughs, bullocks and servants, maintained at the planter's expense. Occasionally ploughs and bullocks are hired for the purpose when the establishment kept at the factory may not be sufficient.

The *ryotti* cultivation, on the other hand, as the very name implies, is carried on by ryots on their own lands, under contract and by advances made by the planter. And the *ryotti* again is further divided into cultivation of two kinds, one carried on in villages or estate of which the planter has acquired temporarily or perma-

nently the rights of the zaminder or talookdar, and the other in villages belonging to other parties. These two kinds are familiarly known under the names of *ilaka* and *be-ilaka*. In Bengal Proper, the ryots, as before observed are of two classes, those resident on estates held by the Concern and those who are not. The contracts, which all the ryots enter into, are either for one year, or vary from three to five or ten years. The advances, made in October and November, are invariably at the rate of two rupees a beegah, and for this sum, the ryot usually agrees to give land suited for indigo, which lands would be marked off by the servants of the factory, to prepare them, to sow the indigo, weed it, and deliver the plant at the factory. The plant, when grown and delivered is measured, and credit is given to the ryot at a rate which now ranges from 4 to 6 or 8 bundles for the rupee. The bundles are measured by a six-feet chain passed round the centre of the plant. An acknowledgment is given to the ryot at the time of measurement, or some few days afterwards, and at the close of the manufacturing season, in August or September, the accounts are drawn out, and in October the ryot attends at the factory for the adjustment of the same. To his debit are set down the advances made to him at Rs. 2 a beegah, the value of the stamp on which the contract is engrossed, usually two annas, the seed from 4 to 5 seers, which is usually charged for at four annas a beegah, though it costs more than this sum to the planter; the expense of carting the plant, and after first year's engagements, the amount of any previous debt remaining uncleared. To his credit is placed the value of the bundles delivered by him; and a balance is thus struck. If he has *fazil* or excess to receive, he has it paid down; if otherwise the debt remains against him, and he receives advances for the next season's operations, not at the full amount of the lands for which he has engaged, but with a deduction in proportion to his debts. In some instances, if the debt is very large, he receives no fresh advances, though he may receive a separate loan to aid him in his difficulties, or the debt may be reduced or cleared off, by the voluntary act of the planter. The same process is repeated year after year in the case, both of ryots resident on the

estates of others, and of ryots of estates attached to the factory. With some local distinctions, and with certain other defects or exaggerations, forming sources of complaint, and with of course, a great deal depending on the temper, experience and management of the planter himself, the above are the main features of *ryotti* cultivation in Lower Bengal, and as a general statement, we believe it to be accurate and unquestionable. We may state here that the average return of a beegah is about 10 to 12 bundles and that a thousand bundles of plant give on an average about five maunds of dye."

The effect of the cultivations upon the ryot has been described in the Report in the following paragraphs.

"We think it absolutely essential, for a right understanding of the whole subject, to draw His Honour's special attention to this fact—a fact, not to be disputed or questioned, that the cultivation of indigo is *not profitable* to the ryot on the terms heretofore existing."

"We feel that it is incumbent on us first to place in the strongest and clearest light, the ryot, as he appears to us, *deprived of his free will* and bound to continue a cultivation, which does not give him a fair or adequate profit, which in its worst aspect he absolutely dislikes, and in its most favourable aspect he is only induced to tolerate. All the defects of the systems, inherent and incidental, all the faults which justly are laid at the door either of planter or ryot by their respective opponents, may be traced originally to one bare fact, *the want of adequate remuneration*."

Having detailed the systems of cultivation, we shall now sketch the legislative history in connection with the *contract* which was the key-stone of the whole fabric. The planters maintained that their interest imperatively demanded special protection and they were clamorous for a law to punish criminally a breach of contract by one party and one party alone, to a commercial bargain. In 1811 the Government of Lord Minto declared:—

"That it could not discern the necessity for converting the remedy,

already opened to the Indigo Manufacturer, of a suit in the Civil Court, into a criminal prosecution."

The planters, however, were not idle. Regulation V of 1823 was designed to protect a person, who had advanced indigo seed or capital only for purposes of its cultivation in a defined parcel of land, by giving him a lien and interest in the land, and declaring him entitled to avail himself of a certain process for the protection of his interest. The planters were still more successful in 1830, for the Regulation V of that year made ryots who broke indigo contracts, liable to prosecution and penal consequences in the Magistrate's Court, as for a misdemeanour. This obnoxious legislation was allowed to disfigure the Statue Book till 1835, when the question of indigo contracts was submitted to the Law Commissioners. Lord Macaulay in his minute of 1835 writes—

"The regulation which gave to the indigo-planters who had made advances to a ryot, a lien on the indigo crop seems to me highly objectionable in principle. On the whole I am not satisfied that any peculiar system of law is required for the indigo districts. I believe that the evils which exist in those districts differ little either in kind or in degree from those which may be found in almost every part of our Indian Empire. There is a bad judicial system. There is a bad police. There is a people accustomed for ages to be plundered and trampled upon, and ready to cringe before every resolute and energetic oppressor. I have no doubt that Government can do very much to remove these evils. When a good system of law and police is established, when justice is administered cheaply and purely, when idle technicalities and unreasonable rules of evidence no longer obstruct the search after truth, a great change for the better may be expected to take place. This is all that we can do directly. But by doing this we shall indirectly produce a great effect on the national character. The people of India will learn to place confidence in the administration of justice. They will find that they can safely stand up for their

rights. They will appeal fearlessly to our Courts, against the tyranny of the rich and powerful."

The Court of Directors also in their despatch No. 3 of 1832, refused to sanction any legislative measure so framed as not to extend equal protection to all. In the same despatch they directed the repeal of the objectionable clauses of the Regulation V of 1830. The Law was repealed, much to the discontent of the planters, in 1835 by Act. XVI of the same year. The planters, however, kept the ball rolling, and their further attempts in this direction are thus noted by the Hon'ble Mr. Buckland in his 'Bengal under the Lieutenant Governors.'

"In the years 1854-55 a proposal to re-enact Sections II and III of Regulation V of 1830, for the purpose of enforcing the execution of contracts relating to the cultivation and delivery of the indigo plant, was much discussed, but no special legislation was thought to be necessary."

We shall have to revert to this point later in connection with Act XI of 1860.

It has already been described that *contracts* were entered into by the planters and ryots. Now the first principles of the law of contract require, that both the parties entering into a contract must be *free agents*, otherwise no legal contract can take place. How far the ryots were free agents in these contracts—remains to be discussed. Lord Macaulay in his minute already mentioned, says :—

"But, it is said, these contracts are not freely made. Force and deception are employed. The peasant assents to disadvantageous terms from fear of bludgeon-men, or is tricked into signing some paper which he does not understand. I answer that in all such cases there ought to be a remedy. The law, I apprehend, would even now reach these oppressive and fraudulent practices. If not, the law ought to be altered. In every case of coercion or deception, the contract should be set aside, and the tyrannical or dishonest capitalist should be punished with examplary severity."

Lord Macaulay wrote this in 1835, but the law hardly ever reached the fraudulent and oppressive practices till the outbreak of 1859-60.

Mr. F. L. Beaufort C.S., who was then Legal Remembrancer admitted before the Commission—

"In practice, I believe, that these contracts are supposed to descend from father to son, but of course such an idea would not be allowed in any Court. Practically I have no doubt the planter holds such inheritance of liability in *terrorem* over the ryot."

The English Poet has sung of 'Freedom's battle once begun bequeathed from bleeding sire to son'—but it was reserved for his countrymen in the East to show that serfdom's contract,, once enforced, was also bequeathed from bleeding sire to son.

Sir Ashley Eden in his evidence emphatically says—

"My opinion is, that in no instances within the last six years, at least, have ryots entered into *legal contracts* for the cultivation of this crop, and that with the exception of Factories which have a large extent of *chur* lands cultivated, the indigo cultivation is in no instance the result of free agency, but that it is always compulsory."

and adduced the following reasons in support of his opinions :—

"First, I believe it to be unprofitabe and, therefore, I cannot believe that any ryot would consent to take up that cultivation, involving as it does serious pecuniary loss to himself; secondly, it involves an amount of harassing interference to which no free agent would subject himself; thirdly, from a consideration of the acts of violence to which the planters have throughout been compelled to resort to keep up this cultivation as proved by the Criminal Records of Bengal; fourthly, from the admissions of the planters themselves that if the ryots were free agents, they would not cultivate Indigo; fifthly, the necessity under which the planters state themselves to be of spending large sums in the purchase of Zemindaries and other descriptions of rights, giving them territorial influence and

powers of compulsion, without which they would be unable to procure the cultivation of indigo; sixthly, the statements of ryots and the people generally in the district in which I have been; seventhly, the fact, as soon as the ryots became aware of the fact that they were by law and practically free agents they at once refused to continue the cultivation."

Recourse was never had to greater sham than what was practiced in relation to indigo contracts; the engine of compulsion was ever set at work against the ignorant ryots. They were in constant dread of the planter's oppression which, like the sword of Damocles, was hanging over them. In such a perturbed state of mind, they were hardly competent to exercise any rights possessed by them. Accordingly, the ryots were generally in the dark on the question of free agency. But as soon as they began to realise, that the planters were no more at liberty to force on them advances than they were in rejecting them cases of refusal to sow indigo commenced to occur.

We shall now describe the steps which led to such refusals. The first important case of refusal seems to have taken place in Baraset which was, then, a Suburban District. As far back as 1855 Mr. R.L. Mangles, the then Magistrate of Baraset, expressed an opinion, in certain cases connected with the cultivation of indigo, that the ryots could not legally be compelled to take advances for the cultivation of that crop against their wishes; the result was that the ryots, having discovered the fact, at once threw up the cultivation. Complaints were made to the Government by gentlemen in Calcutta, interested in indigo with the result, as stated by them, that Mr. Mangles was reprimanded. As Mr. Mangles left the district immediately afterwards, the ryots were afraid to resist the planters and sowed indigo to a small extent. The consciousness awakened in the minds of the ryots, as to their being *free agents* faded for the time being. Had human beings been endowed with prophetic vision, verily

Mr. Mangles could have asked the ryots to wait for one even greater than himself, coming as their saviour.

Early in the magistracy of Sir Ashley Eden at Barasat the ryots of the Bengal Indigo Company applied to him for protection from the threatened forcible dispossession of their lands by the *Bara Shaheb* of the Company. The Begal Indigo Company were the richest firm of indigo traders in Bengal They had their principal factories all over the Districts of Krisnagore, Jessore, and Baraset. Mr. R. T. Larmour,* the General Mofussil Manager, was the leading planter in Bengal and possessed the strength and power of a Despotic Chief. Mr. Eden said, the influence exercised by the Company had long been such that the Subordinate Officers of the Government in their neighbourhood, were afraid to do their duty, and, in some cases the, Police were the instrument made use of by the planters for oppressing the people. The factories in connection with which the disputes, mentioned before, arose were situated in the subdivisions of Kaloroorah and Tarragooney. Mr. Eden directed orders to be issued for the protection of the complainants provided the lands proved to be undoubtedly the ryots' own. Mr. Larmour complained to the Commissioner of the Nuddea Division, and this led to a discussion of the question as to the right of the planter, on an *ex-parte* allegation that a ryot was under advances to him, to enter by force upon the land of such ryot and cultivate indigo there Sir A. Eden strongly maintained that the land being the property of the ryot and not of the planter, the latter had no right whatever, on any such plea, to take possession of the ryot's lands and that the Magistrates were bound, in such cases of trespass, to protect the ryot in his possession. His views were not

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* A new form of whip or stick was introduced for beating ryots. Mr. Eden said it consisted of a stick with a leather attached, and was called "Sham Chand" or "Ramakant." The authorship of this has been ascribed by some to Mr. Larmour.

upheld by Mr. A. Grote. C.S. the Commissioner who directed him to induce the ryots to cultivate Indigo. But the young Magistrate of Baraset was not a man to sacrifice his conscience to official threat and pressure. A similar question having arisen again, he again gave the same orders to his subordinates to afford protection to the ryots, in the event of the planters' servants entering upon their lands violently to sow there a crop, which the ryots objected to. His orders were again upset by the Commissioner and he was even reprimanded. But he remonstrated with Mr. Grote against the views he had taken. Happily for Bengal-ryots, there was a change in the Head of the Government. Sir John Peter Grant was appointed Lieutenant Governor on 1st May 1859. The difference of opinion was referred to him and he declared, as will be seen later, that the principle enunciated by the Magistrate was the true exposition of the law as it stood.

At the latter end of 1858, Mr. Eden was requested by two Europeans connected with the Hobra Factory in the district, to use his influence to make their ryots take advances. He declined and told them to offer the ryots a remunerative price. Instead of doing this, they complained of the Magistrate to Mr. Halliday, the Lieutenant Governor. The result was an interview in which Mr. Eden was confronted with certain persons representing the Indigo interests. Mr. Halliday suggested a compromise and Mr. Eden was directed to induce the ryots to go to the factory to adjust their old accounts. He was also to instruct them fully what their rights were as regards the Indigo cultivation. He pointed out that the result would be disastrous to the interests of the planters, but he was overruled by the Lieutenant Governor and the course was agreed to by the representatives of the parties. After this, Sir Ashley Eden drew up a vernacular paper or *rubakari*, with reference to the compulsory attendance of ryots at the Factory to receive advances upon contracts they were



Sir. John Peter Grant.



Sir. Ashley Eden.

forced to sign. The ryots then learnt that it was really *optional* with them to enter into contracts or to refuse to do so. The fact it was optional, be came generally known throughout the District and ryots came from Jessore and Krishnagore and took authenticated copies of the Order, knowing that the effect of the intimation would be to spread gradually throughout Bengal a knowledge of the fact that it was optional with ryots to enter into the contract or not as they thought fit. Mr. Eden apprehended that the result of such knowledge would be to put a stop to the forced system then existing and took the precaution of obtaining the sanction of the Commissioner previously to granting such copies. The *Rubakari* was issued on the 20th February 1859. The result was, as strongly put by Mr. Eden, that most of the Factories at Baraset were at once closed. His proceedings were approved of by the Government in their letter No. 3066 dated the 13th May 1859.

The Decision of the Government on the point at issue between Messrs Grote and Eden was communicated by letter No. 4516, dated the 21st July 1859. Subsequently copies of the Government Order were forwarded to the Sub-divisions of the District for the information and guidance of the Deputy Magistrates in charge of them. On the 10th August 1859 a new Deputy Magistrate was put in charge of Kalaroa and he applied for a copy of the Decision of the Government for his guidance. Mr. Eden forwarded to him extracts from the Government letter, relating to the general question of Police inteference in Indigo disputes along with his letter dated the 17th August 1859 which contained the following instructions—

"You will perceive that the Course laid down for the Police in Indigo disputes, is to protect the ryot in the possession of his lands, on which he is at liberty to sow any crop he likes without any interference on the part of the planter or any one else. The planter is not at liberty, under a pretext of the ryots having promised to sow indigo for him to enter forcibly upon the land of the ryot.

Such promises can only be produced against the ryot in the Civil Court, and the Magisterial authorities have nothing to do with them, for there must be two parties to a promise, and it is possible that the Ryots whose promises or contracts are admited, may still have many irresistible pleas to avoid the consequence the planter insits upon."

The Deputy Magistrate issued a Bengalee *perwanna* in terms of the Order. The *Perwanna* was much talked of by the planters and upon their complaint was made the subject of an enquiry by the Government. It was characterised as a carelessly translated paper. Its issue, was disapproved of as indiscreet; but it was proved not to have produced ill consequence any where.

We are glad to find that the Deputy Magistrate was our distinguished townsman, the late lamented Babu Hem Chandra Ker. Another Deputy Magistrate also in charge of Kalaroa, before Babu Hem Chandr Ker, gave an order protecting the ryots against the forcible entry of the planter. He was no other person than the late Nawab Abdul Latiff Bahadoor who was the recognized leader of the Mahomedan Community in Calcutta. Thus they had the moral courage to oppose Mr. Larmour as admitted by him before the Commission. The noble example of the Magistrate of Baraset did not die out, but was afterwards followed by the Magistrate of Krisnagore, Mr. (afterwards Sir) W. J. Herschel. He not only issued perwannas to his Subordinates but also affixed proclamations to the Court-houses for the enlightenment of the ryots.

All these combined to prove the existence of an inclination in the authorities, to afford the ryots that protection practically which had all along been theirs by law and theory. They brought home to the ryot's mind, in unequivocal terms, the fact that they were really *free agents* and it was optional with them to enter into contracts or not as they thought fit.

This roused the ryots from their bondman's slumber. Till then the ryots did not hear even a whisper of any intention, on the part of the English Government, to protect them from the oppression of the English planters. On the contrary, the reprimand and rebuke offered to Mr. Mangles and Sir Ashley Eden made the ryots believe that the Government were strongly prejudiced in favour of the planter. Even Justice was travestied when the planters were put upon their trial. Sir Ashley Eden was asked by the Commission to give his opinion as to why this happened and we gather the following from his evidence.

"There certainly was a failure of justice which, in my opinion, may, to a great extent, be attributed to the strong bias which the Governor and many of the officers of the Government have always displayed in favour of those engaged in this particular cultivation: this may also partly have arisen from the difficulty, which exists under the present law, of obtaining a conviction against Europeans. I consider that it has frequently been the case that the Government Officials have sacrificed justice to favour the planters. I will go further and say that, as a young Assistant, I confess I have favoured my own country-men in several instances."

The latent suspicion of the ryots as to the partisanship between the Government and the planters was greatly roused, when on the 1st of August 1857, the Government of Sir Frederick Halliday appointed some of the leading planters in the districts of Krisnagore and Moorshedadad, to be Assistant Magistrates. Rev. Mr. J. G. Lincke of Krisnagore, who mixed freely with the ryots there, said before the Commission that he was in the District when planters were appointed Honorary Magistrates, and that the impression was very unfavourable among the ryots whose expression was—"Now they have made the wolf the shepherd of the sheep." Rev. James Long said he even heard songs condemnatory of planters as Magistrates, set to music and sung with enthusiasm by a band of native singers in the Krisnagore District. The Com-

mission in their Report disapproved of the appointment of unoffiocial Europeans as Honorary Magistrates, as inexpedient in that excited state of Bengal Proper.

There was even an impression that the Lieutenant Governor, Sir Frederick Halliday, had a share in some of the Concerns. Accordingly when Sir John Peter Grant succeeded him, Rev. Mr. Bomwetsch wrote in a letter to the *Indian Field*—

"When the people wanted to know whether the new Governor, was like the old one *i.e.*, whether he had shared in indigo, and whether he was friend to the planter, I positively answered in the negative."

The planters, never blind to any 'coin of vantage' made most of the alleged phenomenon of a guinea-pig Lieutenant Governor. They hood-winked the ignorant ryots with the idea that the indigo cultivation was a *quàsi* Government institution. Their servants even went so far in circulating falsehood that a cultivator deposed before the Commission—

"The *amin* and *takidgir* told me that there was a new law passed, called *mughurer ain* or the law of the mallet, that unless I dig the indigo lands sufficiently deep, I should have my head beaten with a mallet and indigo sown on it."

But, in spite of all, the mist of ignorance as to the ryots being free agents began to melt away; and they beheld the serene rays of peace and protection radiating from the new ascendant Star at the Belvedere. This happy combination of events might have hastened the Outbreak of 1859-60, but the real cause of it must be sought elsewhere, as has always been the case in all popular risings.

CHAPTER II.

CAUSE AND COMMENTS.

History shows that popular risings are always connected with the peoples' views of the situation. Even when the views are manifestly wrong the disturbances take place, but they fail to extend beyond the circle of those immediately concerned. In the beginning of the last century, machinery was substituted for hand-labour in England. Many old hands were thrown out of work, and there were riots to prevent the use of machinery. But the Luddites, as the rioters were called, were not able to gain their end in the long run. After spasmodic attempts, they were suppressed, for ever.

But the case is different when the popular view rests upon the solid foundation of Right. As in a stream, circles of wave gradually widen from the centre of disturbance and spread all around, so the popular belief begins to extend all over the community. Far-sighted thinkers, who can read the signs of the times, take up the cause, as one of general importance, and fight out the battles of righteousness and justice. Such was the case with the Corn Law agitation in England. It originated with the manufacturing classes but was ultimately taken up by men like Richard Cobden and John Bright.

The Indigo disturbance furnishes another instance in illustration of the above truth. Accordingly we begin with the popular view, as regards the hardship of the system of cultivation, which will unfold the true and primary cause of the disturbance. The Report describes the views taken by the ryots as follows :—

"It is asserted that the contract for the growth and production of the plant, so far from being voluntary, is forced upon the ryot, who is compelled by more or less of pressure to accept advances; that these advances are rarely given, or are not given in full after the first year or two; that the ryot is compelled to plough, sow, and weed his land, and to cut and cart the plant, at times when he would prefer being engaged in the cultivation of other crops of superior profit; that the land selected and marked off by the servants of the factory is often the best kind of land, most carefully cultivated by the ryot, and most heeded by him for his own convenience, or that land actually ready for other crops, or even sown with such crops, is forcibly ploughed up and re-sown with indigo: that the mere cultivation is thus rendered to him irksome, repulsive, and harassing in the highest degree; that owing to the precariousness of the crop, and the inadequacy of the payment, the ryot invariably falls into balances, and that persons once agreeing to sow, bequeath the obligation to their descendants, in the third and fourth generation, and that these descendants are either never able, or if able, are not allowed to free themselves and families from the debt which their fathers have contracted with the factory; that the system which is thus founded on compulsion and maintained by force, is still further rendered odious by the extortion and oppression of the factory servants who divert from its lawful end, a portion even of the small and inadequate payments made to the cultivators: and that the lower orders of servants practice many other ways of oppressing the ryots, or of extorting money from them, such as cutting their bamboos, taking away their thatching grass and the produce of their gardens, seizing their ploughs, and carrying away their cattle under pretence of damage done to the growing plant; that in order to prevent ryots from disputing the will of the planter, more serious outrages are often committed, and that instances can be shown where planters or their servants have burnt and knocked down homesteads, plundered bazars, kidnapped and carried off respectable inhabitants and confined them for weeks and months in dark places, transporting them from factory to factory to elude the pursuit of the Police; that even darker outrages on women have been openly perpetrated; and that in consequence, the feeling of the ryots is one of bitter but sullen hatred to the European; that

with regard to the native Land-holders, the attitude and encroachments of the planter towards these persons have led to frequent disputes, to violent affrays, to agrarian outrages, and the consequent demoralisation of the people; that constant complaints and protracted litigation have followed on these occurrences; that the planter, commencing to contract with ryots resident on estates of which the proprietary right is not held by the factory, has exerted a pressure on those ryots, who then seek the protection of their Zemindar, or he has sought an occasion of provoking a quarrel with the land-holder, in order, it is repeatedly asserted, to extort from the latter the grant of an estate on lease, or in *putni*; that the real and avowed object of extorting these concessions, is that the planter may acquire the rights, influence, and position of a Zemindar, without which he never would be able to compel the production of so much indigo for a single day; that these rights are rarely alienated, either temporarily or permanently by the Zemindar, of his own free will; but that the alienation would not take place if the Police were not inefficient, the laws weak, and the executive authorities and the Covenanted Magistrates in particular, disposed to side with the European, as against the native interest; that it is owing to the above causes, and not to voluntary acts of the native land-holders, that the planters have managed to absorb so much of the Zemindar's rights and properties; that no improvement is perceptible in the condition of ryots of villages where indigo is cultivated, as compared with that of ryots who do not cultivate indigo, but rather that the former are depressed and impoverished by the compulsory and profitless cultivation; that the system has been borne with so long, because the ryot of Bengal is of a passive and enduring nature, and that the dislike evinced during the past season, is merely the expression of feelings pent up for the last twenty or thirty years; that this growing dislike has been noticed by local authorities, intelligent natives, and independent Europeans, and has been occasionally pointed out in official and unofficial correspondence; that if the Zemindars were free agents in the grant of leases, and ryots were free agents in the acceptance of engagements, a great and immediate reduction would take place in the area and extent of indigo cultivation, from the first date when

such rights could be openly enjoyed and acted on by either party; and finally, that the whole system, as above described, is vicious in theory, injurious in practice, and radically unsound."

The preceding lines lead to one and only one conclusion. The system was at fault, the system which Mr. Long deprecated as one of forced advances and fictitious arrears—pauperising the ryots of a whole district to prop up a serfdom, and Mr. De Latour denounced as appearing neither to recognise the existence of a Magistrate on earth nor a God in Heaven. Naturally the dislike of the ryot for the cultivation would be most intense and their feelings most real and earnest. The following answers from several ryots shewed such was the case:—

"But if my throat is cut I wont sow indigo."—"I will die sooner than cultivate indigo."—"I would rather go to a country where the indigo plant is never seen or sown."—"Rather than sow indigo I will go to another country, I would rather beg than sow indigo" I would sow indigo for nobody, not even for my father and mother." —"No, I would be rather killed with bullets."

The question, put to himself by Sir Auckland Colvin, on a memorable occasion, comes to our mind—'If it be real what does this mean?'—True as those utterances were their full significance could only be understood, from the following remarks of the Commission:—

"It is not easy to possess those, who have not witnessed the demeanour and heard the language of the ryot, as we have done, with a just appreciation of this intense dislike. Ryots of different Concerns, at miles distance from each other, have expressed to us the same idea in language clear, emphatic and pointed, and striking as coming from the mouths of persons in their rank of life, namely, that indigo and its attendant evils had been the bane of their lives.

The feelings of the ryots were also voiced in the popular songs and current sayings of the day, which, though they

gave a faithful image of the under-current of the community. were never taken notice of betime by the Government. With reference to them Mr. Long said as follows before the Commission—

"Songs have a powerful effect among Bengalees, and are used for religious and other purposes, with great success, justifying the remarks of Burke, "Give me the making of the ballads of a nation and I will give you the making of the laws." I beg to submit a pamplet published in Bengali and widely circulated, called "The oppression of the indigo planters" It contains songs which have been sung far and wide, among natives and set to music."

The Rev. S. J. Hill of the London Missionary Society repeated before the Commission the following verse of a ballad, sung in various parts of the Moorshedabad district:—

"The enemy of the soil is Indigo;
The enemy of the labour is idleness
So the enemy of caste is Padre Hill."

"Zaminer Shatru nil
Kormer Shatru dhil
Temoni jater Shatru Padre Hill."

These premonitions led Mr. Long to conclude—

"I can assure the Commissioners, that no language can depict the burning indignation, with which indigo planting is and has been regarded by the native population, It alarms me seriously for the future peace of India, unless an equitable adjustment of the question is made."

Sir John Peter Grant observed with reference to them as follows:—

This is the great point of political bearing in the whole question, and it cannot be too attentively considered by all who have any responsibility for the tranquillity of the country, and the strength of the British Government within it. If any one thinks that such a

demonstration of strong feeling, by hundreds of thousands of people as we have just witnessed in Bengal has no meaning of greater importance than an ordinary commercial question concerning a particular blue dye, such a person, in my opinion is fatally mistaken in the sings of the time.

The causes, which led to the unhappy results, are not now far to seek. The Commission pronounce emphatically that the crisis which had unhappily overtaken the planters in 1860 was one which might have arisen in any one other year. There was every element ripe and ready for such an outburst of popular feeling. Sir Ashley Eden was decidedly of opinion, that the compulsory character of the cultivation, was the chief cause of the disturbance, the late rise in prices the additional cause and the sudden knowledge of *free agency* only the approximate cause.

Dr. Duff describes the situation thus in his eloquent language—

" Feelings of discontent under what had begun to loom on their misty minds, though vaguely and indistinctly, as unwarranted or illegal oppressions, became intensified though still suppressed. But though suppressed as regards outward manifestation, they were only secretly " bottled up" until ready for outburst. This outburst was apparently occasioned, not caused by the famous *Perwanna.* It did not create the feelings of discontent. These existed in full force before. It was not, therefore, the cause or the sudden and unexpected uprising against the indigo system: it was only the incidental occasion of developing feelings which had long been pent up, and had become ripe and ready to break out into open acts of resistance and violence. It was only the im mediate occasion of "tapping" the reservoir of accumulated dis content—the sudden and unpremeditated stroke of Wat Tyler's hammer.

Rev. James Long, accounted for the crisis as follows—

" To my knowledge the ryots have for many years complained

of this factory system, but it is the last straw that breaks the camel's back. The rise in prices, the increased value of labour, the ferment of mind produced by recent political events in India, together with the sympathy which is increasing between the educated natives and the masses, have led to the late movement. I believe the *perwannas* of the Magistrate (Mr. Eden) have been only the occassion that has brought matters to a crisis and shewed the ryots that it was the wish of the Government to deal impartially with the question.

It may be naturally asked here, how did the system go on for years without any change and why did not dissatisfaction openly manifest itself at an earlier period. The Report furnishes us with answers from more persons than one. We give the answer given by Dr. Duff, on the occasion—

"Simply because the labouring population of Bengal have, through all ages been of an abject and servile spirit. Their own Laws and Institutions have constituted them practically serfs; their Rulers, whether Hindu or Mahomedan have uniformly treated them as serfs. To the practical or virtual serfdom they have been habituated from birth; and to it they had become resigned from ancient tradition and immemorial usage, alike Civil and Sacred. Having been thus led to regard their condition as decreed unalterably by Fate, they were predisposed patiently to submit to almost any amount of oppression and wrong on the part of their natural superiors, whether Brahmans or Zeminders, Planters or Rulers. Ready however to acknowledge all Rulers *de facto*, and regarding, in their ignorance, the planters as only a portion of the Ruling Authorities, whom they are bound to obey, they doubtless felt themselves under obligation to submit to much at their hands, which otherwise, they might have been prepared sooner openly to resent."

It would be unfair to conclude the present topic without giving the views of the opposite party and we invite the attention of our readers to the following opinion of Mr. R. T. Larmour. He said before the Commission:—

"Those *peruannas* had the effect of rousing all the ryots

throughout the Kishnagore district, and inducing them to attempt to break their engagements. These *perwannas* were followed up by a letter from the Secretary of the Bengal Government to the Commissioner of the Nuddea Division, finding fault with the conduct of the Magistrate and Deputy Magistrate of Nuddea in cases in which indigo-planters were concerned, and which led the natives generally to believe that the Lieutenant Governor of Bengal (Sir J. P. Grant) was strongly prejudiced against indigo and indigo-planting. The ryots, labouring under the belief that they would receive the support of Government in not fulfilling their engagements, became very daring, and attacked and maltreated Europeans when riding about the country. A petition dated 4th February 1860 was presented through the Commissioner of Nuddea by myself, begging for the immediate interference of Government to counteract the impression that the ryots had received by the reports that were being circulated and the *perwanna* that had been issued. No notice whatever was taken of my representation and when a notification was issued to disabuse the ryots' minds, it came too late, and had no good effect."

Another planter Mr. James Forlong of Nischindipore Factory, stated, in addition to what Mr. Larmour said—

"What first unhinged the relations between, the planters and the ryots, was unquestionably the Act X of 1859, as the Act struck directly at the root of all authority possessed by the planters, as land-holders. The effect of the Act was industriously propagated among the ryots by *mooktyars* and others. A system of agitation against the planters was organised, and countenanced openly by many influential men in Calcutta, and also by the Missionaries in the Krishnagore District. Emissaries swarmed through the district giving bad advice to the ryots."

The views of the planters have already been criticised They failed to understand the real point at issue, as the game was theirs. Their so called charges against the Missionaries and others had been answered by the Commission, and we give their findings below—

"The Missionaries have advised the ryots to obey the laws, to commit no illegalities, to sow indigo this year and, if oppressed, to appeal to the higher authorities. Indeed the assertion that the refusal of the ryots to sow indigo has been produced by the preaching of Missionaries, is one entirely without foundation of truth."

"The Editor of the "Hindoo Patriot" (Babu Hurish Chandra Mookerjee) who has naturally taken a great interest in the crisis, has emphatically denied before us the truth of a rumour which charged him with having sent emissaries into the districts: and the British Indian Association repudiates any connection with *mookteyars* or legal agents who took up the ryots' cases under Act XI of 1860 and gave them legal advice. But these agents, acted in a perfectly legal, open, and fair way, and are a different class of persons from the supposed agents of sedition."

"In our opinion it is extremely unreasonable to attribute the sudden failure of an unsound system which has grown up silently for years, to the officials or Missionaries who told the people that they were free agents."

The Lieutenant Governor accepted the findings in his Minute and paid the following tribute to the Missonaries :—

"I must not pass this last point, without respectfully expressing my admiration of the conduct of the Missionary body, throughout these trying events."

We commenced with popular views of the dispute and have tried to pick out the internal and real cause of the disturbance. We have also pointed out that the planters, blind to the inherent defects of their system, magnified some of the external circumstances, the relation of which to the Indigo riot may be compared to that of the 'greased cartridges', to the Mutiny which immediately preceded it. It now remains to be seen whether any other conclusion as to the genesis of the disturbance can be arrived at, from an examination of the planter's version of the situation as compared with the ryot's views previously given. We again quote

the Commissioners in *extenso* to exhibit the two poles of the controversy, which is always necessary for presentation of an impartial estimate before the readers. The Report on the point begins :—

"On the other hand, the case for the planters, as before the public, to the best of our knowledge, has been set forth as follows. The rule of the planter, as proprietor of lands, is a milder and more temperate rule than that of the native. It was not so much the wish of the planter to secure landed rights in permanency or for a time, as to secure the growth of a fair portion of indigo plant. Could he be certain that the free contracts entered into by the ryot resident on the estates of others, would he faithfully adhered to, there would be no need for him to seek the rights and influence of a zemindar. But his cultivation is so liable to interruption and interference, at the ill-will, caprice, or dictation of the native zemindar, and the ryots are so often led away by evil advice and instigation, that no resource is left to the planter, but to acquire rights which may enable him successfully to prevent or resist the intrusion of others. The zemindar, aware of this necessity, artfully and culpably foments disputes between the planter and ryot, in order that the latter may fly to his landlord for advice and assistance, and that the former may be compelled by the necessities of his situation, to pay exorbitant prices for *putnis*, or to take on lease, at a high bonus and a rental liable to enhancement at the expiration of the term of years, lands so assessed that no effort, or skill in management will enable him to collect an equivalent from the ryots. In this way, the planter is put to unnecessary expenses, has less money at command, and cannot afford to benefit the ryot as much as he would desire. But for all this, the marketable value of land, owing to the above purchases and operations, has immensely risen. The difficulties of planters have further been increased by the jealousy and the suspicion with which the executive authorities, especially those of the convenanted service, have regarded the increasing wealth and influence of the independent European. His very presence being felt as a check to the continuance of abuses, it has been disliked ; as a natural consequence, his endeavours have been thwarted ; no

allowance has been made for his position, and there has been a constant desire, on the part of Government and its officers, to weaken his influence, to invade his rights, and to drive him from the country. In spite of this, the benefits of the European's presence, as planter and land holder, have been everywhere acknowledged. He protects the ryots from the exactions of the Police, from the rapacity of the money-lender, and from the payment of extra cesses demanded by the zemindar. The laying out of roads, the establishment of school and dispensaries, attest his practical benevolence. Though it be urged by the opponents of the system that the payment for the plant grown by the ryot, be not directly remunerative to him, yet this inadequate return is owing, in some cases, to the sheer indolence and obstinacy of the cultivator, who will not exert himself to plough and weed at proper times: in others, to a succession of bad seasons acting on a crop confessedly so precarious as indigo; and in others to a sudden and unprecedented rise in the wages of labour, and the price of all other produce; which rise has unfortunately not hitherto been met by a corresponding rise in the price paid for the plant. Yet with all this, the planter has been in the habit of allowing his ryots to hold their land at the low original rates of rent, while rents in neighbouring zemindaries have been even doubled: and he has also assisted them in many ways; advancing them loans without interest, when their cattle die and when their houses are either burnt or blown down He is daily accessible to natives of all classes, either when riding through his villages or when holding a Court, where unbought, summary, and substantial justice is regularly distributed. By the well directed energy of the planter, large tracts have been cleared of jungle; population has increased, and the increase has been followed by the social progress, visible in the large houses, the better clothes, and the more numerous cattle of the inhabitants. The presence of the planter has been generally synonymous with order, progress and contentment. His failings, it is earnestly contended, have been those of the situation in which he is placed. The Police are corrupt, the Law Courts are remote, and the Procedure is complicated and slow; the zemindars are usurping and oppressive. The ryot, for

all the kindness shown to him, is idle and faithless. The idleness necessitates the close and constant supervision of the fields destined for indigo, at each season, of the successive agricultral operations by the inferior servants of the factory; and this faithlessness would compel the planter to sue the ryot for attempted breach of contract, were it not that no summary proceeding is open to him, and that to refer him to a civil suit, with its delay and circuitousness, would be a mere mockery. Instances of violent affrays and agrarian lawlessness however numerous in past times, have substiantially decreased in frequency, and in many districts no such outrages are now known at all. Complaints of planters either by zemindars or ryots have entirely disappeared from particular Courts; and whatever may have been the offences committed by individuals, the planters as a body stand out to the public as just and independent men who circulate large amount of capital; who put down crime and diffuse civilisation; and whose presence in the interior in the eyes of an enlightened Government should be at once, a guarantee against rebellion, an element of strength and a source of prosperity."

The foregoing lines principally deal with two points, the complaints urged by the planters against zemindars and Government Officials, and the advantages arising from their presence in the country. In the complaints were suggested plausible pretexts as to the origin of the disturbance. But they could no more bear the light of truth and criticism, than darkness can bear the rays of the rising sun. As to the interference and instigation of zemindars, the Commission pronounced the following verdict after full consideration and mature deliberation:—

"Nor again have we any reason to believe that the discontent was generally fostered other by zemindars themselves resident on the spot or by emissaries from Calcutta. And we are of opinion that all zemindars are much too fearful of any general combination of ryots, as well as too jealous of any signs of independence as likely to affect themselves, to have given any secret impulse or instigation to the peasantry. On the whole, then, we cannot subscribe to the

opinion that there is any thing in the conduct of native zemindars which evinces hostility to the cultivation of Indigo or which places a bar to the investment of European capital."

Sir John Peter Grant acquiesced in the finding of the Commission and recorded that native zemindars, generally, had no hostility to the planter as a class.

The only complaint as regards the attitude of zemindars, which was admitted as an undisputed fact, referred to the practice of the *zemindar* giving a lease of his *zemindary* right to a planter, at a rent which not only left no margin for expenses and risks of collection, but which was largely in excess of the gross rental lawfully demandable from the ryots. Ruinous as the practice was to the interest of the peasantry, the zemindars can hardly be made responsible for it. This will clearly appear from the following remarks of of Mr. Grant and the Commission :

"In such cases the only possible reason for agreeing to pay the excess is the expectation that, by the misuse of the *zemindari* right, the holder may be able to extract in some way, directly or indirectly, more from the ryot than is legally demandable. I cannot see that the extraction of the same value in the form of Indigo plant, is, in any legal or moral view different from an illegal cess of money. The planters complain of their practice; and it is certainly very wrong in the *zemindar* to sell, as it were, not only his own rights but those of his *ryots*. But I cannot think that it is right in the planter to become a party to the act."

"But we cannot but feel that the zemindars of Bengal have a right to sell, at their own price, the landed influence which they themselves do not always desire to relinquish, and which the planters, by their own showing, declare to be of essential and even vital importance to their main business. The native gentlemen cannot be prevented from making the bargain most advantageous to themselves; and if they see the planter more than usually anxious to gain a special object, it can hardly be wondered that, for the

gratification of that object, they should exact a high price. This is the law of buying and selling all over the world."

In the admission of the practice, however lies another proof of the unprofitableness of the crop to the husbandmen; what the planters lost in giving premium to zeminders, they gained in discount from ryots. As zemindars, the planters put forward an incidental advantage to the ryot in the form of a low rent. But Sir John Peter Grant has pointed out that not a single instance was advanced in which rents had been reduced by an indigo planter on obtaining a lease or *taluk*, and only few instances were advanced in which a neighbouring *zemindar* had raised his rents while those of the Indigo ryots were not raised.

In this connection we are sorry to find Sir William Hunter speaking of the indigo ryot of 1860 in the *Imperial Gazetteer* as follows—

"Soon after the first European planters established themselves in the district a feeling of jealousy arose among large native land-holders, who found their influence suffering in consequence of the presence of the new comers, They accordingly endeavoured to raise in the minds of the cultivators an ill feeling against the planters and against the strange crop. Constant quarrels fallowed, and the planters failing to get redress from the Courts had recourse to fighting the native land-holders with bands of club-men. The zemindars took every occasion to create a feeling of dissatisfaction among the Indigo cultivators, and not without success."

It is a matter of surprise that even Sir W. W. Hunter who was a recognised authority on all Indian questions should have fallen into such a lamentable mistake. But when we find in his 'Statistical Account of Bengal' that his account of indigo was condensed from papers furnished to him by indigo planters, surprise disappears at mistakes by circumstances made inevitable. Nevertheless he bears testimony to the inherent

rottenness of the system and the unprofitableness of crop in the following lines—

"Moreover, the husbandmen were in a state of chronic indebtedness to the factories for advances, which went on in their books from father to son and were a source of hereditary irritation against the planters, whenever a bad season forced them to put pressure upon the husbandmen to pay up. The cultivation of cereals and oilseeds now paid the husbandmen better than indigo, and so intensified the feeling against it."

However there is a shadow of truth when planters said that designing men were trying to lay the axe at the root of the Indigo plantation. In every riot, reform, or revolution, there is an extreme section who by acts of indiscretion and violence bring discredit upon their legitimate leaders. In the great French Revolution the misdeeds of the Girondists in its early stage and those of the Jocobins in the later, may be cited as examples. If we are allowed to compare small things with great, it may be said, the Indigo disturbance furnished us with another illustration of the truth. Dr. Duff pointed out that the *perwannas* announced the simple truth—that the ryots were really free and fairly entitled to exercise their rights as freemen—but they did not sufficiently provide for the contingent result of such an announcement falling suddenly and nakedly from authority on minds, ignorant and ill-balanced and in an irritable, inflammable, and highly resentful state. Accordingly we find, some of the ryots, in their implacable hatred for the planters were unable to understand the nature and scope of the *perwannas*, and misconstrued them to mean that they were permitted to break the indigo engagements already made. They even tried to make converts to their belief. Their number was however few, and their preachings did not affect the whole body of ryots, always noted for their moderation and submissiveness.

The complaint, against the Officers of the Government has been characterised by Sir John Peter Grant as a preposterous charge and it could not but fall completely to the ground. From the admissions of the planters themselves, and from the whole tenour of the Orders usually passed in Indigo disputes, the Commissioners did not find in it any substratum of truth whatsoever. The following observations of Mr. Grant will show that the truth was the other way—

"On the contrary they find that Magistrates have not always been sufficiently alive to the position of the ryots nor accorded to them a due share of protection and support. They say "It is not too much to say that had all Magistrates held the scales in equal balance, a cultivation of the character which we have clearly shown indigo to be would not have gone on for such a length of time." I am obliged to support the finding of the Commission on this point."

The alleged complaints have been proved to be without foundation. However we owe it in justice to the planters that we should quote the following observations of the Commissioners.

"While thus condemning the system as it now stands, we are anxious to give due weight to all the points which may be alleged in defence or extenuation. Doubtless the planters have, as a body suffered much from bad seasons, and have not thought themselves in a position to afford liberal terms to the ryots. If they have pressed on the ryots, which we do not justify, they have themselves been under a pressure of circumstances, and in some cases have only been able to maintain their position. The Administration of Civil Justice has been defective. The evils admitted to exist in the system of planting are not universal wherever indigo is grown, nor are the offences committed by the planters or their servants altogether peculiar to indigo. Some of the plant is grown on a fair system, though much is grown on a bad one, while in some districts discontent is rife, in others no complaint is made as yet."

We now propose to examine the advantages set forth by the planters. They are chiefly twofold. The first of these is of a general character and speaks of the importation of British capital and the presence of British settlers in this country. We are glad to observe that we do not find a dissentient voice in this regard and its importance will be pointed out when we shall speak of the economical character of the dispute.

Next come the practical advantages offered to ryots and with reference to them Sir John Peter Grant wrote as follows in his Minute.

"On the planter's side some reliance has been placed on certain incidental advantages claimed for an indigo ryot. So far as such alleged incidental advantages are of a tangible character, they have faded away before the search of the Commission. But there is really little use in discussing such a point. There is but one judge of the relative value of the advantages of the cultivation, direct and incidental, and that is the ryot. And he has delivered his judgment on the point in an unmistakeable manner.

The Commissioners also said of these alleged advantages that:—

"As far as our enquiries have enabled as to discover positive facts, we have heard of but two dispensaries and a few vernacular schools."

This reminds us of the humorous remarks in the preface to the drama 'Nil Durpan'—'If the application of a little turpentine after beating by *Shamchand*, be forming a dispensary, then it may be said that in every factory there is a dispensary.'

We are sorry not to find in the Report any acknowledgment of substantial justice being dispensed in the so-called Courts of the planters. Be that as it may, we can not refrain from pointing out that they were no more recognised by the Law of the land than the sylvan Courts described in the lays of the Scottish Ministrels.

CHAPTER III.

THE STORM AND STRESS.

In speaking of the sudden casting off by the ryot of a yoke which galled him for generations Sir John Peter Grant drew attention to two silent but important changes which added to the misery of the peasantry. The first consisted in the purchase of *zemindary* and other superior tenures by the planters, which established the relation of land-lord and tenant between the planter and the ryot. How this opened out a new source of oppression of the ryot, we reserve for discussion in another chapter. The other change was a practical adherence by the shrewd planter to the well known maxim—"United we stand, divided we fall."

Formerly the planters were at feud with each other and this afforded some refuge to ryots standing in the midst of rival manufacturers. But commencing from a time, about 1845, and especially, since the establishment of a central "Indigo Planters' Association", the planters portioned out the country amongst themselves and honorably abstained from interfering with each others "spheres of influence." Though the result had been good for the general peace of the country, it brought the energies of the planters to a focus to oppress the poor ryots. The planters stood united to protect their common interest in the growing of the Indigo plant. There were inter-telepathic communications amongst themselves, and their Association at Calcutta was kept informed of what was going on in the Muffisil.

Thus the planters were fully alive to the growing symptoms of awakening life among the ryots, and tried from the

be-ginning to stifle its growth. They understood that it was becoming well nigh impossible for them to enjoy the lion's share in the future. They realised the truth,—of the Scotch bard's famous line—

'The stag at bay is a dangerous foe'

and began to prepare themselves for the emergency. They successively drew the attention of the Government to the opening revolt, first in April secondly in November 1859, and thirdly, as mentioned in the evidence of Mr. Larmour, in February 1860, and finally in the form of a deputation from the Indigo Planters' Association at Calcutta, early in March 1860. Sir John Peter Grant thus became acquainted with the planters' side of the case. The Deputation prayed for the speedy adoption of two measures. The one was the issue of a Notification by Government, impressing upon the ryots the duty of fulfilling their engagements, as the ryots were labouring under a mistaken belief as to the views of the Government in regard to the cultivation of Indigo. The second measure was, that special legislation should be had recourse to, for the purpose of making the breach of an agreement to cultivate Indigo punishable summarily by a Magistrate. The Lieutenant Governor lost no time in issuing a Notification to that effect. The Notification dated the 14th March 1860 was ordered to be carefully translated into Bengali and distributed broadcast in Indigo districts in which the misunderstanding had occurred. He then put himself in communication with the Legislative Member of Council for Bengal for the introduction of a Bill for the summary enforcement of existing engagements for the cultivation of Indigo.

On the other hand, when he went out touring through the river districts of Bengal in August 1859, he touched for two or three days at the Sudder Sations of Krisnagore and Berhampore; petitions came pouring forth from a large number of ryots copmlaining against the attitude

of Government Officials, in cases where planters were a party. The complaints were enquired into and they were found to be true to a great extent. His Honour also made arrangements so far as possible for the redress of their grievances. The Lieutenant Governor strongly urged the Commissioners and District Officers to spare no pains in impressing upon the villagers the duty of honestly fulfilling their engagements whilst also explaining that it was always optional with a ryot to agree to cultivate Indigo or not, as it best suited his own interest. Weekly submission of Reports of the state of the Indigo Districts, was insisted upon, to keep the Lieutenant Governor acquainted with what was taking place in the interior.

The ryots, at last, in contrast to their previous condition of apathy and inability to help themselves, exhibited a spirit of resistance, and a determination and a power to act together. They became desperate and were determined not to sow indigo any more. Babu Sisir Coomar Ghose, the renowned Editor of the great *Amrita Bazar Patrika*, explains, in his *Indian Sketches*, the origin of this great combination in which, he says that 'millions of Indigo-ryots and other Bengalees shewed a degree of patriotism, self-sacrifice and devotion scarcely witnesed in the annals of the world before.' We give here the substance of what he has written in this connection. While the feelings of the ryots were in a state of the greatest tension, two villagers Vishnu Churn Biswas and Digumbar Biswas, of Chowgacha in Nuddea, raised the banner of rebellion against the planters. They were formerly, *Dewans* of indigo concerns, but left their offices, in bitterness of minds at the oppression of the planters. They made up their mind to throw off the yoke of serfdom, and roused the ryots to take arms against their sworn enemies. They sent the 'fiery-cross' of revenge from village to village, and even indented club-men from the district of Backerganj

at their own cost for any outbreak that might happen. They also financed the ryots in their law suits with the planters and infused new hopes in them. The ryots now began to gather round their standard and break out in open revolt. The Biswases made immense sacrifice for the cause they took up. Their money losses were about seventeen thousand rupees. These are the types of village Hampden—

> "————That with dauntless breast.
> The little tyrant of his fields withstood.

Pity, posterity knows so little of them.

Mischief was then afoot. The exasperated peasantry took to various means, in some cases most daring, to molest the planter. Europeans riding about the country were insulted and asaulted. Planters were violently resisted in the performance of their usual works, such as measuring lands ; *ameens*, *khalasis*, *gomosthas* were taken prisoner. There was a regular panic among them. In some cases the planters were only able to disperse the mob on loading their guns. Supplies were being stopped by villagers. Growing crops were destroyed. Factories began to be attacked and plundered, and in some cases, burnt. It is said that a most flourishing factory was burnt down and in a single night the outturn of a year was reduced to ashes. Accounts were ransacked from *sherista* and burnt. Even Government Officials, engaged in investigations were maltreated. Mr. E. F. Lingham, a Deputy Magistrate, narrowly escaped being put to death. Mobs assembled in large numbers, armed with spears swords bamboos and shields.

Such were the works of spoliation and devastation. However, the planters were not silent, there were free exchanges of blows on both sides and many were the victims of violence. We need not trouble our readers with individual cases of disturbance but confine ourselves to the wise

measures adopted by the Government to put an end to the disturbance. Those who are anxious to gather these cases will find some of them described by the present Chief-Secretary to the Government of Bengal, the Hon'ble Mr. C. E. Buckland, in his most valuable book—"Bengal Under the Lieutenant-Governors." We give here, however, some of the opinions which will bring home to our readers' minds the seriousness of the situation.

Rev. James Long wrote in the columns of the *Harkaru*—

"The daily press here being all on the side of the indigo Planting interest announce that peace and order are prevailing now in the indigo districts, with few exceptions. I have information of a different kind however and from trustworthy sources. It is a peace procured by the dungeons and the stock —by the Magistrate's pandering to the interest of planters. The Magistrate gets good cheer in the planter's house: of course he is not ungrateful enough to give a decision in favour of the ryot, which besides, would bring on him the abuse of the Calcutta Press. The unjust deeds of certain Magistrates are noted and in due time will come to light.

A 'reign of terror' exists in certain districts—factory godowns had they ears, could tell sad accounts of the sufferings of ryots. Yes Sir, certain planters can make use of *black holes* as well, as Serajdowla did; while the violation of their daughters will teach ryots, how they complain of the Indigo Saheb. A ryot's life will soon not be safe, who bears testimony against the planter."

Sir John Peter Grant, while returning from a tour along the Kumar and the Kaligunga,—two rivers which chiefly run through Nuddea and Jessore, described his experiences thus in one of his Minutes.

"I do not know whether it ever fell to the lot of an Indian Officer to steam for fourteen hours through a continous double street of suppliants for justice; all were most respectful and orderly but also were plainly in earnest. It would be folly to suppose,

that such a display on the part of tens of thousands of people, men, women and children has no deep meaning. The organisations and capacity for combined and simultaneous action in the cause, which this remarkable demonstration over so large an extent of country proved, are subjects worthy of much consideration."

Last though not the least, Lord Canning wrote—

"I assure you, that for about a week, it caused me more anxiety than I have had, since the days of Delhi." "And from that day I felt that a shot fired in anger or fear by one foolish planter might put every factory in Lower Bengal in flames."

The Government however took prompt notice of these disturbances. Services of the strongest Magistrates were brought into requisition in indigo districts, where the staff of Magisterial officers was also sufficiently strengthened. It was even thought advisible by the Lieutenant Governor in case of things taking a more serious turn than the local Officers seemed to anticipate, to have ready at hand, in the neighbourhood of those places in which the excitement was most prevalent, Detachments of the Police Battalions of such strength as might be expected to put down any riot or violent outbreak which might have occurred, and as far as possible to protect any person or property that might have been menaced. Accordingly he placed at the disposal of the Commissioner of the Nuddea Division four Detachments with three European Officers of the 6th Battalion of the Bengal Military Police, to be posted in the different parts requiring their presence. The extreme measure previously recommended was adopted in the shape of a temporary Act know as Act XI of 1860. Its object was twofold. On the one hand, it sought to avert a great commercial evil by giving temporarily summary powers to Magistrates as regards enforcement of indigo contracts : on the other, it held out hopes to the less excited ryots that their grievances would be duly enquired into, by the appointment of an independent Commission. The Commission consisted of W. S.

Seton-Karr Esq., C. S., President, R. Temple Esq. C. S., Rev. J. Sale, W. F. Fergusson Esq.—nominee of the Indigo Planters' Association and Babu Chandra Mohan Chatterjee representing the British Indian Association. The formation of the Commission gave a check for the time being to the high ebullition of feelings on both sides. The Commission commenced their sittings on the 18th May 1860 and both planters and ryots began to watch their proceedings with the greatest eagerness and solicitude.

In the mean time, however the Government shewed considerable tact and judgment in putting a stop to popular rising and inducing the ryots to sow the crop for the current season. Sir John Peter Grant was equally accessible to planters, ryots and the public in connection with the Indigo dispute. No sooner complaints reached him regarding the oppression of planters or violence of ryots, than he caused searching enquiries to be made by the proper authorities. In each case the results of enquiry were forwarded to the complaining parties for their information. These correspondences form the bulk of the Government publication known as "Selections from the Records of the Government of Bengal No. XXXIII." Sir John Peter Grant held the scale of justice even and opened out his arms of protection to all. He acted according to law and never flinched from the path of duty in fear of consequences that might have happened.

The Report of the Commission was out by the latter end of August 1860. The Commissioners were not agreed in their views. Messrs. Temple and Fergussion appended Notes of Dissent showing why they differed from the conclusions of the majority. The Report fully discussed the various issues involved in the case and described the whole situation in unimpassioned language and gave an impartial estimate of the nature and progress of the controversy. We may say here, that the best analysis of the Report is furnished by the Lieute-



W. S. Seton-Karr.

nant-Governor's Minute on the subject which was dated the 17th December 1860. It is also the best comment and criticism of the Report of the Commissioners. Their findings are of the nature of judicial utterances, and we have already made quotations, when required. However for the judgment of our readers, we give at the end of the Chapter, those paragraphs of the Minute which bear on,—the relations between the planters and the ryots; the evils requiring to be remedied; and the Notes of Dissent. We leave out the recommendations proposed by the Commission, as they are of very little interest at present.

However there were certain points discussed by Messrs. Temple and Fergusson which we cannot omit to notice here. The readers will gather these from the following extracts from the Minute of the Lieutenant Governor. We find here the seeds of the thorny growth which developed afterwards into the existing Arms Act—

These two same members recommended the general disarming of all natives in Bengal, but without taking away clubs. The long, heavy iron-bound club in use is a formidable *lethal* weapon; and a disarming in Bengal, which should not touch the most common *lethal* weapon used in affrays, would be operative, I fear, only for harm. It would disaram the peaceable man, and allow the professional bravo of the country to carry his own peculiar arms. I would rather reverse the operation. I do not see in the evidence anything to show that the mass of the people in Bengal, a quiet and well behaved race, should be disarmed. I would like to see them much more ready and more stout in self defence than they are. But I would disarm and punish the hired clubmen, and I would punish all who employ them, without exception of classes. I trust that a provision in the Penal Code introduced by the Bengal Member of the Legislative Council, in consequence of a suggestion from me, will have the effect of enabling the Magistrate to cut off the root of affrays, by imposing some responsibility on

those in whose interest they are committed, as recommended by those two members of the Commission."

The Government of India reviewed the Minute of the Lieutenant Governor on the 27th February 1861 and generally agreed with him. Lord Canning also held that the manufacturer compelled the ryot to furnish the plant at a price not equal to the cost of its production. High encomium was passed on Mr. Grant for the great ability displayed in the Minute.

The Report reached England in due course. We give here the observation of a Member of Parliament on perusing the Report of the Commission. Mr. J. Layard says—

"He read their Report from beginning to end, and he must say had risen from its perusal with a feeling of shame and indignation which he conld find no words to express.

Sir Charles Wood in his despatch on the subject dated the 18th April 1861 to the Governor-General wrote—

"I entirely concur with the Commissioners, with the Lieutenant-Governor of Bengal, and with Your Lordship, that the evidence taken before the Commission, including that of the planter himself, is conclusive as to the fact, that the cultivation was *unprofitable* to the ryot who was required to furnish the plant at a price, which with the extra charge to which he was subjected did not reimburse him for the cost of production."

The fundamental conclusion of the Commission as to the *unprofitableness* of the indigo cultivation was thus supported by the hierarchy of authorities. As a natural corollary, to the conclusion, it followed that the planters should either wind up their concerns or grant important concessions to the ryots. Mr. Fergusson the representative of the planters, was also of opinion that judicious concession would be the best policy for the planters to adopt towards the ryots. But as the adjudication of the concessions to be made, would be a fruitful source of fresh quarrels, Sir Charles Wood issued directions from his seat of authority as follows.—

"The interference on the part of Government should be confined in the words of one of the witnesses, 'to providing good magistrates, good judges and good police, who shall see justice done to all and leave no room for oppression on the one part and fraud on the other."

These remarks were a mere repetition of what Sir John Peter Grant said in his Minute in connection with the answer of a planter as to what terms should be offered in future by the planters to the ryots. Accordingly it may be said that the Minute of the Lieutenant-Governor also indicated the policy to be followed in future. It is needless to write that it was approved of, both, by Lord Canning here, and Sir Charles Wood (afterwards Lord Halifax), in England.

Some of the natural results of the disturbance were as follows. The advantages hitherto enjoyed by the planters vanished away. The free agency of the ryots established itself in the minds of all. The principles of neutrality, with reference to the relations between planters and ryots commended themselves to the Rulers. The *ægis* of protection stretched firmly in cases of oppression. The impression, that the Government had its share in the cultivation of the crop, fainted far. Justice poured forth its blessings to all irrespective of creed, colour, and caste. It became thus evident to all observers that the days of enforcing the cultivation at the bayonet-point of oppression would be no more. These causes prognosticated the natural decay of the indigo trade in Bengal. Sir Richard Temple, a member of the Commison, afterward recorded in his *Men and Events of my time in India*' that 'Indigo planting in Bengal eventually succumbed to the fact that the plant could no longer be produced with profit to the cultivator'. But the death knell of its palmy state was sounded by the Bengalee drama *Nil Durpan* in which the author 'held the mirror up to nature.' The drama itself, its English translation and the celebrated trial connected with it all enkindled a fire which burnt up the blue dye of oppression

The Hon'ble Mr. Buckland points out that 'the Indigo interest had long been doomed and never recovered its former position in Bengal.' Sir W. W. Hunter writes in the *Imperial Gazetteer*, that the indigo industry has not recovered from the depression and actual damage caused by the Indigo riots of 1860', and his biographer Mr. F. H. Skrine observed in his recent book that the "Mirror of Indigo" became a sort of *Uncle Tom's Cabin*' and led to drastic measures in the relation between planters and natives.'

Though the Despatch of the Secretary of State sealed the fate of the Indigo interset in Bengal the disturbance did not cease all on a sudden. It assumed a new phase in the spring of 1861 and was chiefly connected with the realisation of rent under Act X of 1859. On the 4th March 1861 a deputation of the Planters' Association waited upon Lord Canning and submitted the evils, which they apprehended, in the realisation of rents from ryots, and the payment of land revenue. Sir John Peter Grant was present when the deputation was received. Two Special Commissioners were appointed to deal with the difficulties in question. There were also cases of serious outrage and violence but in each case the aggrieved parties were assissted by a protective force.

The Special Commissiones prepared their Reports after a few months, which were submitted by Sir John Grant to the Governmnt of India. The latter on receipt of them pointed out that Sir John Peter Grant, as well as the Special Officers misunderstood the primary object, which was to effect a settlement of the differences between the land-holders and the ryots. Sir John Peter Grant said in reply that the permanent and final adjustment of dfferences at the bottom of which was Indigo, was not possible, as the Special Commissioners were forbidden to enquire into that subject. The correspondence between the two Governments caused some unpleasantness. Lord Canning deprecated the tone of Mr Grant's

letter as disrespectful, out of keeping with the relative positions of the two Governments. Sir John Peter Grant expressed his regret in an apology on the day of his retirement, the 23rd April 1862.

Since the unfortunate difference of opinion as to the rent question, Lord Canning leaned towards planters' interest and assumed a tone towards Mr. Grant which thwarted the latter's noble policy. The reversal of policy of the Governor General caused alarm in the native community, and their leading journal the *Hindoo Patriot* of 1862, observed as follows with regard to the transition which the indigo difficulty underwent.—

"The planters got up a false rent cry, to which the Government of India, bullied into a temporary conviction, yielded. The vacillation which the Supreme Government betrayed did not pass unnoticed or effectless. It immediately told upon the Lieutenant Governor and local officers, and if rumour may be trusted, the last year did not close without seeing indigo tyranny increase with redoubled vigour, and the ryots enthralled in a still more galling yoke * * It is a fact that his Lordship was blinded in the matter of rent. He gave the Government of Bengal the authority to advance loans from the public treasury to the Planter-zemindars, in other words to remit, the public revenue for future payment on the plea of the recusancy of the ryots. This was a course so unprecedented, so novel, and so completely demonstrative of the partiality or weakness of the Government, that it had but to reach the notice of the Secretary of State to be countermanded. Sir Charles Wood at once saw through the error, and sent out strict orders prohibiting the course adopted by Government."

The last topic for our consideration is the attitude of the Local Government towards the planters and the ryots and how each repaid the Government, for its beneficent acts. Sir John Peter Grant was of opinion that no human power exerted in defiance of the law in support of the system of cultivation of indigo could have upheld it much longer, and that if

the Government had disregarded justice and policy so far as to make the attempt, it would have been speedily punished by a great agrarian rising, the destructive effects of which upon European and and all other capital no man could calculate. He earnestly set himself to work from the day he was appointed Lieutenant Governor to save Bengal by his wise discretion and judicious acts from two impending calamities, *viz.*, the ruination of the Indigo trade and the extinction of the Bengal ryot. Acording to Mr. Grant the whole cultivation of Bengal was in his hands, and the ruin of this mighty interest would have been the ruin of the country. The trade could have flourished again but, as said by Goldsmith :—

" But a bold peasantry their country's pride,
When once destroyed can never be supplied :"

The People of Bengal were deeply grateful to the Lieutenant Governor and raised a universal chorus of praise. An Address was given to him, signed by Raja Sir Radhakanta Deb and others on behalf of Rajas, Zamindars, Tâlukdars, Merchants, Tradesmen, Agriculturists and other natives of the province of Bengal. The Address was acknowledged in suitable terms by the Secretary to the Bengal Government. We make the following selections from the Address.

"Your Honour has been the first Governor during the last fifty years, who has had the moral courage to face boldly the evils of this iniquitous system (indigo cultivation), to assert in respect to it the supremacy of the law, and to vindicate the rights as freemen of hundreds of thousands of innocent ryots; who toiling under its galling thraldom had hitherto vainly pined for justice.

Discontent and heart burnings are naturally rife amongst the parties interested in the perpetuation of the hitherto prevailing system of indigo manufacture. We have therefore not been surprised to see that your Honour's administration has been assailed by those interested parties with an unreasoning violence for the

policy of justice adopted by you, that your motives have been grossly misrepresented, your name covered with obloquy, and bitter personal opposition offered in return for the sage and manly counsels vouchsafed by your Honour for their behoof. We must add, Hon'ble Sir, that had it not been for your prompt, firm, farseeing and wise measures, the indigo dispute would have ended in a catastrophe of bloodshed and horror, which the peaceful plains of Bengal have not witnessed since the establishment of British rule in India."

The LieutenantGovernor in his reply gracefully gave the credit to his Officers Executive and Judicial who had been immediately in contact with the parties concerned in the agitation. Of these Officers special mention must be made of the names of Mr. A. Eden afterwards Sir Ashley Eden Lieutenant-Governor of Bengal and W. J. Herschel, then Magistrate of Krishnagore. The latter was the grandson of the great astronomer Sir William Herschel and after wards a Baronet. It will be seen later on that these Civilians were the target of attack by the planters and their representatives in the Press

It now remains to be seen how different was the attitude of the planters towards the Government for its various measures. Instead of paying any tribute of gratitude to the Sir John Peter Grant for averting the threatened destruction of the indigo trade, the Planters Association submitted a Petition against him to the Governor-General-in-Council. The Petition was dated the 26th July 1860, and contained the following prayer—

"Your Petitioners therefore humbly pray your Excellency in Council to take into consideration this Petition, and to pass such orders as may oblige his Honour, the Lieutenant Governor of Bengal to refrain from pursuing a course of conduct which cannot but be ruinous to the Indigo planter in Bengal, and to point out to His Honour the impropriety of interfering with the due course of the administration of the Law by the regularly appointed Judicial

Officers as laid down by the Legislative Council of India and which interference is, as your petitioners submit, both illegal and unconstitutional, and especially indiscreet in the cause of a dispute between capital and labour, and that your Excellency may pass such further orders as may under the above circumstances seem proper."

Sir John Peter Grant replied to the accusations in his Minute, to the Governor General in Council, dated the 17th August 1860. His Excellency fully supported the Minute and his Secretary communicated the fact to the Bengal Government in his letter No. 1639 dated the 31st August 1860, which concluded with the words —'I am desired to intimate that His Honour may depend upon receiving the full and cordial support of the Governor-General-in-Council in continuing to act on the principle on which he has hitherto acted. On being apprised of the fact, the Indigo Planters' Association submitted their reply dated the 13th October 1860 in which they concluded as follows—

"And, believing that a different line of conduct on the part of the Government of Bengal would have led to a very different result to that which now exists, they submit these remarks to his Excellency, trusting that this matter is one of sufficient importance to attract to it careful consideration and his Excellency's earnest attention."

But the Governor-General-in-Council rejected the views of the planters as will appear from the following extract from letter No. 31 dated 24th November 1860 written by the Officiating Secretary to the Governor General in Council.

"The Governor-General concurs with the President in Council in considering that there is nothing in the letter of the 13th October from the Indigo Planters' Association which should affect the opinion already expressed by the Governor-General in Council that the conduct of the Bengal Government and of its Officers generally, has been marked by a strictly impartial administration of the law to all classes concerned."

The planters however were incorrigible. Sir H. S. Cunningham in his '*Life of Lord Cunning*' observes as follows, in speaking of the urgent matters that drew the attention of the Viceroy at Calcutta. 'The Indigo planters, an important interest, by no means inclined to submit to an imagined grievance had raised a controversy as to their relation to the ryots, with whom they had to deal and whom they frequently oppressed'. On the 4th March 1851 their Association in Calcutta waited in deputation upon Lord Canning but to no effect. They carried the agitation against the Lieutenant Governor to England, and in a pamphlet, called "*Brahmins and Pariahs*" published in London 1861, they appealed to the British Government, Parliament, and People for protection from the Lieutenant-Governor of Bengal, and made use of the following choice expressions against him in the frontispiece of the Pamphlet.

"This high Officer has interfered with the free course of justice, has destroyed capital and trade of British Settlers of India and has created the present disastrous condition of incendiarism and insurrection now spreading in the rural districts of Bengal."

In the earlir part of the Pamphlet, the planters raked up the old quarrel—'Civilians *vs.* British Settler,' as will be evident from the following extracts—

"That a feeling of dislike to Settlers exists among Civilians; that the Civilians as distinguished from the Settlers are too much of a caste; and that the Covenanted Service is as it were the Nobility of India. Such have been the British Brahmins of India and the British Pariahs of India, as, after long enquiry, their conditions have been developed by the impartial judgment of a Committee of English Gentlemen. Those Nabobs were but too often extortionate Governors and corrupt Judges. They shook the pagoda tree as violently as they could and they made haste to become rich and to quit the country. But the few straggling Settlers who had found

their way from England without being decorated with the Company's Covenant, were Pariahs—the lowest of the low."

Sir John Peter Grant had been described as 'the present high priest of the Civil Service Juggernaut' and his co-adjutors as 'Civil Lattials.' The diapason of abuse closed full in the concluding lines—

"We asked to be relieved from the oppression of an ignorant and mischievous despot, who is ruining the finest country of the earth, who is even now rendering it necessary to take military occupation of the rural districts of Bengal, and who, if he remain your Minister, will soon bring matters to such a pass that you will have to make your choice between abandoning the country and holding it at the point of the bayonet."

Their strenuous efforts however were not crowned with succes. Both the Governor-General and the Secretary-of-State for India supported Sir John Peter Grant's Administration, as it will be evident from the Despatch of the Secretary-of-State on the Indigo Commission. He says—

"I have further to express my entire concurrence in the opinion expressed by your Lordship and by the President in Council that the conduct of the Bengal Government and of its Officers generally in the transaction under consideration has been marked by a strictly impartial administration of the law and that the Lieutenant-Governor was justly entitled to the full and cordial support afforded to him by your Lordship in Council."

Mr. J. Layard M. P. paid the following tribute to Sir John Peter Grant from his seat in the Parliament—

"A more impartial, a more statesmanlike document than that Minute (Grant's) it had never been his good fortune to read. No expense was spared to intimidate Lord Canning, Mr. Grant and other authorities in India, and every thing was done that could be done to influence public opinion in this country. A costly pamphlet had been circulated among the members of that House but he would not refer to it further than to say that a work which comprised more mendacity and audacity he never saw before in the whole course of the life."

Though the planters were baffled in their attempt to secure the support of the Ruling authorities, their representatives in the Press gave unbridled licence to their pens against their opponents among whom were included Sir John Peter Grant and his worthy co-adjutors. The English Newspapers which took up the cause of the planters were used to be called 'factory journals' for their general line of policy. Of these, we need make special mention of The *Englishman* and The *Bengal Hurkaru.* We give some extracts from the latter paper to give an idea to our readers of the language of contumely and vituperation freely indulged in.

"This is not the view Messrs. John Peter Grant & Co. are likely to take of it." "Messrs Grant Eden & Co." "The animus of Messrs Grant Eden Herschel and Seton Karr has been directed only against their countrymen not against the natives." "Mr. Grant may now be said to be reaping. It is manufacturing season with him just at present. He sowed *perwannas*, he ploughed with Minutes, he harrowed us with Lushingtons and Herschels, and he is now reaping—blood." A description of a tidal bore began thus "with reference to the bore (not the great one J. P. G. of notoriety) brought to your notice."—

The *Hindoo Patriot* of the day remarked that the 'Factory Press had passed as a synonym for scurrility and abuse' and pointed out that the charges against the Lieutenant Governor were notorious for their Billingsgate English Even the Muses were invoked on the occasion. We give here the last stanza of an Ode headed 'Punch' which also appeared in the *Harkaru*—

"Governor Grant is a terrible man,
As he reigns in Alipore Hall;
A compound of Ghengis and Kublai Khan
Tamerlane, Nadir and all.
Says J. P.
Grant Sez he
Drive me the planters into the sea."

Besides these they recommended in season and out of season the removal of Sir John Peter Grant from his high office.

Such was the abuse of the liberty of the Press. But this is not an isolated instance. It is said the strong tyran nise over the weak, all over the world and in all ages. History shews that whenever any champion takes up the cause of the weak against the strong, the latter hurl their lance against the hero. Sir John Peter Grant protected the weak ryots from the deadly grip of the strong Indigo-planters, the result was that he was bitterly cursed by the planters. But the days of excitement are no more and posterity has given its calm verdict, that Sir John Peter Grant saved Bengal during the Indigo crisis.

History repeats itself. We saw only the other day how another Ruler of a province was abused by the Press for taking up the cause of those confided to his care. The Hon'ble Sir Henry Cotton tried to guard the interest of the weak Coolies against the strong Tea planters, and he shared the fate of Sir John Peter Grant, though to a small extent. There seems to be a community of spirit, between the second Lieutenant-Governor of Bengal and the retiring Chief Commissioner of Assam. And it is striking to note that on the eve of his departure from Assam the Hon'ble Mr. Cotton took the opportunity of paying his tribute of respect to the memory of Sir John Peter Grant. He says—"I am old enough to remember how the most illustrious of Indian Officials, Sir Frederick Halliday and Sir John Peter Grant were attacked with even greater virulence in their days for doing their duty. But time has triumphantly vindicated their reputation. I can afford to appeal to the same tribunal."

Extracts from Sir John Peter Grant's Minute on the Report of the Indigo Commission referred to in page 41

31. The Commissioners next proceed to discuss the relations between the planter and the ryot; and under this head may be classed the following questions:—the profitableness or unprofitableness of the crop to the ryot; the willingness or unwillingness of the ryot to grow it, and the means taken to induce the ryot to grow it, which includes the question of the oppressions which the ryot complains of.

Relations between planter and ryots.

32. The Commissioners pronounce conclusively that the cultivation is unprofitable to the ryot, supporting the conclusion by the consentaneous evidence of the planters themselves. This is indeed the one point upon which the whole indigo question turns; and it is not disputed. I do not find that the Commissioners have gone so far into this point as to settle to what degree, pecuniarily, the cultivation is unprofitable, though that it is so to a very extreme degree, is sufficiently apparent from the strength of the feeling against it, amongst those who would profit by it if it were profitable, and who ought to profit by it, and must profit by it, if it is to be carried on at all. There is, however, a great mass of most valuable evidence upon this point in the Appendix of the Report. I have gone into it to satisfy my own mind upon this point, and the result has convined me that the loss of the ryot in the cultivation of this crop on the high lands of Nadia and Jessore is, at the present time of agricultural high prices, greatly beyond even the general opinion on the subject. In a separate note appended to this Minute, I have referred to the evidence proving this. Rejecting

Indigo cultivation unprofitable to the ryot.

all extreme cases and giving indigo the benefit of all doubts, I cannot put the absolute loss to the ryot at a low average, reckonning the net loss on the cultivation of Indigo at the highest price now allowed, and the loss of the net profit the ryot would make by any other ordinary crop at the market price, at less than Rs. 7 a bigha, equivalent at the least to 7 times the rent of the land.

33. Now, if one remembers that these ryots are not Carolina slaves, but the free yeomanry of this country, and indeed strictly speaking, the virtual owners of the greater part of the land in the old cultivated parts of Bengal, so heavy a loss as this will fully account to us for the strength of the opposition to Indigo cultivation which we have just experienced. One-sixteenth of his whole land is a common proportion which, it is insisted, an indigo ryot shall sow in indigo. This is as though a farmer in Great Britain, farming under a long lease 160 acres of land, at a rent of £ 2 an acre, were, by some sort of pressure, forced to cultivate 10 acres, say in flax, which he was compelled to sell to a certain neighbouring manufacturer at a dead loss of £ 140 a year. This is precisely a parallel case, in the legal and economical view. In the social and political view, the case of a new English landlord, forcing a corresponding loss upon several thousand Irish cotters, would perhaps be a fairer illustration.

35. The most tangible of the incidental advantages sometimes put forward is an alleged benefit in the form of a low rent.[*] But not a single instance is advanced in which rents have been reduced by an indigo-planter on obtaining a lease or *taluk*. The extent of the claim goes no further than the assertion that indigo-planters refrain from raising the rents. But as to this, also, few instances are advanced in which a neighbouring Zemindar has raised his rents, whilst those of indigo ryots were not raised. In the concerns of Mr. Hills in Nadia, the rents, I understand, have not been raised to the *pargana* standard. On the whole, I think it very probable that there may be some reality, in certain cases, in this alleged incidental advantage; and it is to me a subject of consolation to think that a moderate, proper, and lawful increase of rents, may be a compensation to

Rents.

some planters who hold tenures of land, and may be constrained to abandon the indigo manufacture. But it is to be remembered that the rents of a very large class of ryots cannot be raised at all; that no rents can be raised except under due form and process of law; and that rents cannot be raised arbitrarily, or beyond certain determinable rates, when raised at all; whilst no reasonable increase of a rent upon 16 bighas would be to the ryot equivalent to a loss of Rs. 7 upon one bigha.

36. To the indigo-planter holding a tenure, indeed, the case will be different. The evidence goes to show that the market value of the indigo dye made from the average produce of a bigha of land does not, at most, exceed Rs. 10. The net profit of the manufacturer, under any system of payment for the raw plant, must of course be very much less. It may well be that to him, therefore, a moderate, proper and lawful increase of rent upon 16 or 20 bighas of land, will be a compensation for all the profit possible from the indigo of one bigha; and, if this should be the case, all parties would have great cause to rejoice.

Intense dislike of the ryots to indigo cultivation.

37. On the actual question of fact as to the dislike of ryots to indigo cultivation on the old system, the Report of this Commission is conclusive as to the intensity of the feeling. Indeed the Report, which in the mildness of its tone is admirable, can give but a faint impression of the intensity of the feeling on the ryot's part, compared to that which a reader will derive from a perusal of the appended evidence of the ryots themselves, and of the Missionaries who, living in unconstrained private intercourse with the ryots around them, know the feelings of the whole class of ryots better than any other Europeans do.

Means of inducement to grow indigo.

40. The Commission show that the bait of advances is not now operative to bring new men into the factory books; cases of fresh advances to new men being of very rare occurrence. Sons succeeding to their father's property, and debts, are said to conceive the impression that they are liable for their father's engaegments

and so are pursuaded to sow. The price allowed for an average crop of indigo not being, in the vast majority of cases, enough to clear the advances, and the heavy charges for seed, stamps, &c. the debt increases constantly. The average produce is stated by planters to be 8 or 9 or 10 bundles a bigha. The average price fixed is shown to be between 5 and 6 bundles for the rupee; the highest anywhere given being 4 bundles. But when there is a balance against the ryot, as there is in the vast majority of cases a small part only of the 2 rupees is really advanced, that is to say, is paid in cash, the remainder being merely transferred in account. The charges are from 4 annas to 8 annas a bigha for seed; 2 to 4 or even 8 annas for stamps, and in many cases 4 to 7 or even to 13 annas a bigha for carting. Of 33,200 indigo ryots who cultivated for the Bengal Indigo Company's concerns in 1858-59 only 2,448 were shown by Mr. Larmour to have received any payment for plant delivered beyond the trifle of cash advanced. Many written engagements contain a clause that any balance shall be paid, not in money, but in Indigo, at the low rate fixed. These I gather are the lawful, or quasi-lawful, means of insisting on the ryots, or families of ryots, who have once touched an advance, continuing to cultivate. But against so strong a motive of self-interest as there is in the ryot's mind for not cultivating indigo, lawful and quasi-lawful means of inducement were necessarily of little power. Consequently contracts seem to a great extent to have fallen into desuetude, luckily for the ryots, and other means in many cases have been exclusively relied upon. Babu Jai Chand Pal Chaudhary, a great zaminder, who is or was also a great indigo-planter (having had 32 concerns in his estate and shares in 9 other concerns) is asked; "if the ryots have for the last 20 years been unwilling to sow indigo, how then have they gone on cultivating the plant up to the present time?" To this he answers "by numerous acts of oppression and violance, by locking them up in godowns, burning their houses, beating them &.' The whole of this gentleman's evidence is very instructive as proceeding from a great zamindar and practical native indigo-planter. This diluted into becoming official language, I find to be the conclusion of the Commission; and,

it is certainly the inevitable deduction from the whole body of evidence.

41. The question of the alleged oppression and unlawful violence practised upon ryots, in relation to indigo cultivation, though from its nature it has naturally attracted a greater degree of public attention than any other part of the whole subject, is but a branch of the last point discussed, namely the means taken to induce people to undertake the cultivation of what to them is a very unprofitable crop.

What are the proved evils to be remedied.

62. Before remarking upon the recommendations in detail, it will be well to look back, in order to ascertain what are exactly the proved evils requiring to be met by such action. It is impossible to judge of the suitableness of a remedy, till we have a clear conception of what it is exactly that requires to be remedied. If we have but a confused, incorrect, and inadequate notion of the real evils, our remedies will be useless and perhaps hurtful.

Planter's complaints.

63. There is nothing in the evidence to prove that before this year planters experienced any material difficulty in getting ryots to sow in indigo the quantity of land required of them, for which cash advances were actually taken whether such requisition was supported by a contract as the planter would generally hold, or was the mere command of the planters, as the ryot would often hold. There are no longer now complaints that ryots take advances for indigo from one planter and sell the produce to another; nor is it the staple of the complaints made before this year, that the ryots took advances for indigo and cultivated on their own account something else instead. There are general charges that ryots are of a fraudulent and evasive disposition, but I have seen in the whole evidence no specific charge of the above nature, in a single instance, before this year.

64. There are, however, on the part of the planters, loud complaints of the carelessness of the ryot, after taking advances, in regard to his indigo crop; of his inattention to it, and of his indifference as to whether it is eaten down by cattle, or choked up by weeds, or goes into the planter's vat, notwithstanding the daily urging of the planter's servants. I cannot doubt that this is a true complaint.

65. And there are complaints that ryots sometimes cannot be got to engage for indigo because of the machinations of third parties. But of this I find no proof; and I see no reason to think the complaint well founded because no motive needs to be looked for, when a ryot refuses, beyond his own self-interest. I find no other complaints on the part of the planters.

66. On the part of the ryots the complaints are that, by oppression and acts of unlawful violence in themselves very harassing, they are compelled to engage to cultivate indigo or to cultivate it without engagement, for the planter, at a nominal price, which even if fully paid would be ruinously unprofitable. The fact of frequent acts of unlawful violence and oppression is fully proved; and the motive is manifest; also the extreme inadequacy of the price paid by the planter, and the unwillingness with which indigo is cultivated by the ryot, are fully proved.

Ryots' complaints.

67. Also the ryots complain that the deductions from the nominal price are so heavy, the unfairness of weighing so great, the extortions of the factory *amla* so excessive, that the nominal price dwindles to little or nothing, so that if they realise from the whole produce of their indigo land, in cash, what pays the rent of the land they are lucky; wherefore they lose the whole value of that land to themselves besides all the costs of cultivating it for the planter. And this appears to me, from a careful examination of the evidence, to be about the true state of the case, as a question of profit and loss to the ryot.

68. It is also made matter of complaint, though I think more by the friends of the ryot than by the ryots themselves, that the ryot is constrained to cultivate indigo by reason of the debt claimed from him by the factory, on account of the balance of account being against 9 ryots out of 10 always.

69. On the part of the Magistrate, it is fully proved that the peace of the country is constantly broken by disputes about indigo, to so great an extent as to be a discredit to our Administration.

Breaches of the peace.

74. As to the complaints of the ryots, it is obvious that the practical and effectual protection of the law for person, property and rights, with absolute freedom of trade, is all that is required to remove the grounds of them. And the same may be said of the Magistrate's complaint which is the consequence only of the inadequate protection he has been able, until lately, practically to afford to the people.

Minor points in Minute of Messrs Temple and Furguss on.

92. The separate Minute, signed by Mr. Temple and Mr. Fergusson, treats of some points not noticed in the Report. These 2 gentlemen remark that district Magistrates have ample power to investigate and prosecute British subjects in the *mufassal*, and that they ought to exercise that power. This is true, though the trial (except in cases of simple assault punishable by a fine of Rs. 500,) under the present law can only be at the Presidency. In grave cases, I trust that this duty is never neglected. But the expense both to the public and to private persons of a prosecution at the Presidency, for an offence committed at a distance, is very heavy; and the inconvenience and loss to prosecutors and witnesses are so great, that such prosecutions are a misfortune to the neighbourhood, in which the person injured is the most certain sufferer. It is not in the nature of thing that these considerations should not operate to a certain extent, as an exemption from amenability to all Criminal Law, in minor matters.

Mr. Fergassour Minule.

93. The body of the Report is signed by 4 members. The fifth Mr. Fergusson, the able representative of the planting interest in the Commission, has not signed it, and has put in a separate Minute, explaining his reasons, I understand that his dissent, in the main, is to the tone of the Report, which in his opinion leads to the inference that planters, as a body, are lawless. The inference, I myself draw from the Report is, that the planters as a body, and naturally, are like any other class of our fellow-countrymen; but that, being within the meshes of a false system, in all that concerns that system, they cannot but act as the system constrains

them. Like all such bodies they comprise men of all temperaments; but it is and has ever been my conviction that there are in this body many as good men as any in India, and I see nothing in the Report to the contrary. Mr. Fergusson objects, to certain views in the Report, as tending to disturb the acknowledged principles of the Permanent Settlement, and to give ryots notions of their rights, incompatible with that contract between Government and the zemindar. I conceive that there is here some of that misapprehension of the nature of the Permanent Settlement, which is very common. That measure in no respect differs from any other Indian revenue settlement, except in being permanent, instead of for a term of years. It is only a settlement of the Government demand of Revenue. It in no way touches any rights, interests or tenures of land, all which it leaves as it found them. It is truly described as a contract between Government and the zemindar; and therefore necessarily it could not affect third parties, whose rights, titles, and interests, indeed, it acknowledges especially, and excepts in terms. Mr. Fergusson freely admits that the recent crisis must sooner or later have occurred, because planters did not raise their prices as other prices rose. He comes thus, I think, in effect, to the same practical conclusion that the majority of the Commission and I myself come to, namely, that the root of the whole question is the struggle to make ryots grow indigo plant, without paying them the price of it.

Conclusion.

94. My high opinion of the manner in which the Commission have conducted their inquiries, and reported to Government their conclusions, upon this extensive and long controverted subject, has been expressed to the gentlemen who composed it, in a separate letter. At a moment of passionate excitement, the careful impartiality with which they conducted their inquiries was admitted on all sides. And though every one will form his own judgment as to their conclusions and recommendations, the cautious, temperate and kindly manner in which they have framed their Report, will, I am sure, be cordially, acknowledged by every one."

CHAPTER IV.

LEGISLATION AND LITIGATION.

The relation between planters and ryots was of a dual character. First, they were two contracting parties entering into a bargain in which the planters used to make some advances or *daudans* to the ryots for the growing of the plant. Secondly they were landlords and tenants, as most of the planters had acquired *zemindaris*, *taluks* and other *putni* tenures.

In their character as landlord, the planters enjoyed with other zemindars the rights granted by the Permanent Settlement and other Regulations and Acts by which was governed the relation of landlord and tenant. The powers vested in the zemindars were immense, and in some cases, they were shamefully abused both by the zemindars and their underlings, to the ruin of the rack-rented ryot. The Regulations most injurious to the interest of the peasantry were the Regulations VII of 1799, and V of 1812, commonly known as *Huftum and Puncham* Regulations.

The Draconian rigour of the former Law, as far as the the ryots were concerned, will appear from the following extracts:—

"II. The zemindars, Talookdars, and other landholders and farmers of land, empowered by secction II of Regulation XVII 1793, to distrain the crops, cattle, and other personal property of their under tenants, for arrears of rent, are authorized to delegate to their naibs, gomastahs, and other agents employed in the collection of their rents, the power of distraining in their behalf.

XV. First. Any landholder or farmer to whom an arrear of rent may be due from an under-tenant which cannot be realised by

distress may cause the arrest of the defaulter and his security in the manner following.

XV. Fifth. Defendant to be kept in close custody if the arrear demanded, be found due from him.

XV. Eighth. But it is hereby declared, that no part of the existing Regulation was meant to deprive the zemindar and other landholders of the power of summoning, and if necessary, compelling the attendance of their tenants for the adjustment of their rents, or for any other purpose, or of measuring any land within their respective estates, which may be liable to measurement, under the conditions upon which such land may have been leased or held."

A writer in the *Calcutta Review* vol VI, P. 341, denounced theRegulations as follows—

" But like every thing else they have their abuses, and have been rendered instruments of great oppression to the peasantry. The abuses arise in great measure from the character of the zeminders and the Indigo planters, who take *putnees* and *ijarahs* and the machinery employed for enforcing the Regulations in question".

These enactments were a double blessing to the planters; for in them they found additional ready means of compulsion as regarded acceptance of indigo *daduns* or advances. When the great Rent Act (Act X of 1859), which has been called the Magna Charta of the ryot, repealed those Regulations, and defined and settled many important principles connected with the rights and obligations of landlord and tenant, the planters contributed their quota of opposition and complaint to the new law, as interfering with their manorial influence over the ryot. The Commissioners pointed out in their Report that the chief ground of complaint was Section XI.

" The power heretofore vested in zemindars and other land holders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payments of the rents due to them, other than are authorised by the provisions of this Act."

But though the Act was a boon to the ryots in some respects, it entailed a new misery on them in the enhancement of rent. Sir W. W. Hunter says in the Nuddea Volume of his *Statistical Account* 'that the operation of Act X of 1859 has resulted in a general enhancement of rents and this increase has been most marked in those parts of the district where the indigo planters are landlords'. This leads one to observe that when the poor ryot gets rid of Charybdis he falls into Scylla.

Next comes the Law as to the breaches of contract. We have sketched in a previous chapter, the early law on the subject. We have now to deal with the passing of the Act XI of 1860, which came into operation on the 4th April 1860. The first ten sections of the Act relate to the summary powers given to Magistrates. It will be seen from the following, analytical abstract of the Sections, given by Mr. Theobald in his edition of the Act, what great indulgence was shown to the planters.

1, 2. Ryot having received a cash advance for cultivation of indigo during now current season, and not cultivating according to agreement may be summoned before Magistrate; who (2) if the complaint is established may assess damages, and order payment or specific performance of contract, and may attach the land to be cultivated, if set out by the contract; and ryot on default of obedience to order may be imprisoned, and damages may be levied on his property.

3, 4. Complaint to be dismissed, if agreement is obtained by fraud, force, or intimidation; and (4) on dismissal for any cause, Magistrate may order complainant to pay costs and compensation.

5. Any person by violence, threats or otherwise intimidating a ryot to break his engagement shall be liable to imprisonment or fine or both.

6. Any person maliciously destroying, or damaging or commanding another to destroy etc. any growing crop of indigo, shall be liable to imprisonment or fine or both.

7. No appeal to lie from decision of Magistrate.

8. Persons vested with powers of Magistrate and Assistant and Deputies specially empowered by Government may exercise powers under this Act.

9. Decision of Magistrate to be a bar: and to have force only in regard to things of current season.

10. Act to have effect from 4th April, 1860, and only within territories of Lieutenant Governor of Bengal. Complaints under it to be preferred in six months.

The only justification of the Act could be based on the ground, that extreme cases require extreme remedies. And that was the reason why even Sir John Peter Grant supported the enactment. To do justice to him we give below the opening para of his letter to the Legislative Member for Bengal, in which he recommended the introduction of the law.

"That there is ground for believing that a great commercial calamity is threatened by the feeling which has suddenly manifested itself among Indigo Ryots to repudiate their agreements to cultivate indigo, although advances have been made to and accepted by them only a short time ago, in the usual manner, and upon the usual understanding namely that, they should cultivate indigo for the planters at the usual rates. * * * It appears to me that a law giving a very summary but still a fair trial, and inflicting penal damages on the party who after a fair trial is found to be determined wilfully to break his engagements is both justifiable and proper. But I am of opinion that no law that could be framed regarding indigo planting at the present moment should be more than temporary. We see that the present struggle on the part of the ryots is to avoid the cultivation of Indigo. From this it is certain that ryots who cultivate Indigo are forced to do so by illegitimate coercion.

The system was such that sooner or later a crisis was certain; it has now come in the natural course of things, and there is no longer an excuse for shirking the disclosure of the disease, and the application of the remedy. For these reasons I could recommend

no Law other than a temporary Law, and no Law of any sort unless its promulgation to the ryots may be accompanied with a promise of full and thorough enquiry into past practice, and thereafter of a well considered Law which shall afford practically equal and complete protection to the ryots as well as to the planter."

Sir John Peter Grant took all the precautions he could for the proper and impartial administration of the Law. In cases of doubt opinions of the Advocate General were obtained and circulated among the Officers concerned. He issued instrucions to the Commissioners of Nuddea and Rajshye, to whose Divisions was practically confined the operation of the Act. He wrote to them :—

"As the Legislature allows no appeal from the decisions of Officers vested with powers under this Act, it becomes doubly incumbent on Commissioners to keep themselves constantly informed of the manner in which those Officers discharge the very difficult and responsible duty now imposed upon them, and of the principles by which they were guided in their decisions. These powers, and the opportunity of acting upon them, must not be retained for a day in the hands of any Officer who may show himself not competent to exercise them in such a manner as to do full and substantial justice to all parties."

These instructions were not meant to be only formal and idle, for we find that no sooner Sir Jon Peter Grant learnt from the Report of the Commissioner of Nuddea Division that one Mr. G. C. D. Betts, a Deputy Magistrate attached to the Krisnagore District sentenced a *Mooktear* named Teetoram Chakraberty, to six months' imprisonment with labour and a fine of Rs. 200 under a wrong interpretation of the Law and also upon insufficient evidence, than he ordered the immediate release of the person and the refund of the fine. Mr. Betts was at once removed from the District, though the innocent victim had to remain in prison for sixteen days. During the short period that the Act was in force, the Lieutenant Governor released sixteen persons sentenced to imprisonment under

the Act. All these showed the parental care of Sir John Peter Grant, but at the same time proved what a prolific source of oppression the new Act was in the hands of unscrupulous Magistrates. The *Indian Field* of the 21st April 1860, said of the working of the Act as follows—

"In Jessore it has been most oppressive in practice. The Planters of the District, having the ears of the Hakims, have succeded in completely crushing the ryots. The Fouzdary Adawlats have been converted into veritable inquisitions and have adopted the most illegal and arbitrary measures for the forcible cultivation of Indigo. Fields cultivated with Rubbee and Chenna have been ploughed up by *Tagilgeers* and *Ameens*, and resown with Indigo."

The Magistrate of the District was Mr. E. W. Molony and the Joint Magistrate, Mr. C. B. Skinner. In consequence of the article in the *Indian Field*, their doings were made the subject of official enquiry and the Lieutenant Governor was obliged to record that it was impossible to pronounce that these Magisterial proceedings were otherwise than unsatisfactory. The planters, from their side, complained against the proceedings of Mr. Herschel, Magistrate of Krisnagore, with reference to the administration of the Act, but the Lieutenant Governor recorded that he had done his duty according to justice and law and deserved all the credit and support the Government could give him. It was strikingly pointed out by Mr. E. H. Lushington, Commissioner of the Nuddea Division that the Bengal Indigo Association and other gentlemen greatly interested in the cultivation of the crop were universal in the praises of Mr. Molony and in the condemnation of Mr. Herschel's system of management. We are tempted to say it will be in keeping with official records, if we identify the district of "Amarnagore" in the drama *Nil Durpan* with Krishngore under the Magistracy of Mr. Herschel.

The atmosphere of Bengal was surcharged with electricity

but the surroundings beyond the seas were serene enough. Accordingly the Secretary of State for India objected to the Act on principle and did not like to see it continue. The operation of the Act ceased on 4th October 1860.

The planters however tried their best to have an Act of that nature. They were so far successful that a Bill was introduced early in 1861 by the Hon'ble Mr. Cecil Beadon to provide for the punishment of breaches of contract for the cultivation, production, gathering, provision, manufacture, carriage, and delivery of agricultural produce. The *Hindoo Patriot* remarked as follows when the Act was brought on the Legislative anvil :—

"Indeed, who could think for a moment, when the Commission closed its labours, that the Supreme Government of the country would, contrary to solemn promises, and belying universal expectation recommend the enactment of a law far surpassing in one-sided severity the Act XI of 1860, and sanction the investiture of the Magistrates with powers a hundredth part of which sufficed to keep the population of the Indigo districts in serfage?"

There was an acrimonious debate on the subject in the Legislative Council but the ultimate issue was with the British Government and the people. The Bill was transmitted to the Secretary of State for his sanction. Sir Charles Wood in his despatch to the Governor General on the 18th April 1861 was not prepared to subject to criminal proceedings matters which have always been held as coming exclusively under the jurisdiction of civil tribunals and requested the withdrawal of the proposed legislation.

Mr. Layard brought the subject to the notice of the House of Commons and denounced the introduction of the Act on behalf of the silent and suffering ryots. The reply of Sir Charles Wood was worthy of the occasion and sealed the fate of the impending legislation. He said that he trusted that when the Indian Government received his despatch they would of their

own accord withdraw the Bill, but at any rate he had expressed his desire that if not withdrawn before, it should be withdrawn on the receipt of the despatch. The measure was accordingly abandoned.

The matter however did not rest here. It was clear from the despatch of the Secretary of State for India that no special legislation for the coercion of the ryot would be countenanced by an enlightened public in England. Attempt was then made for the passing of a law in which the real object of coercing the ryot was kept concealed. Such was the Bill introduced in the newly formed Supreme Council by the Hon'ble Mr. W. Ritchie on the 12th February 1862. It was *relating to breaches of contract committed in bad faith.* Among other things it was proposed to imprison defaulters in civil contract at the expense of the Government, on failure to pay damages decreed against him and also to make his property continue liable until the decree had been satisfied. The *Hindoo Patriot* justly observed that 'the general character given to the Bill was necessary to make it a peg on which to hang a rope for the neck of the ryots'. The subterfuge however did not escape the searching eye of Sir Charles Wood who recorded in his despatch dated the 6th June 1862, that the demand for this law had obviously sprung out of the relations between the Indigo planters and the ryots of Lower Bengal. The objections to the Bill were in his opinion of so serious a character that it was impossible for him to approve of the measure. He trusted that the Bill would be at once withdrawn. The despatch set at rest for ever the clamour for a contract law. The Bill was formally withdrawn on the 10th December 1862 on the report of the Select Committee which was presented by the Hon'ble Mr. H. S. Maine afterwards Sir Henry Sumner Maine.

Another legislative measure was proposed, more dreadful in its nature than the Coercion Act of 1860 described before.

The Hon'ble Mr. C. E. Buckland says in his "Bengal under the Lieutenant-Governors," that the violence of indigo ryots as complained by planters, consisted in—

"Wilful destruction of indigo crops by cattle; and the commission of outrage on their servants and property by large masses of people in which it was difficult to obtain individual conviction"

With a view to mitigate the evils alleged, a Bill was introduced in the nascent Bengal Council on the 29th March 1862 to authorise the imposition of fines on villages and communities. This was talked of as the "Village Fining Act." The Hon'ble Mr. W. Maitland President of the Landholder's and Commercial Association, cited English law which imposed an obligation on Counties and Hundreds in Great Britain, as being similar to that proposed in the Bill. The attitude of the Council led the *Hindoo Patriot* to compare it with the 'House of Kentucky or Carolina Legislature' and to forget that the Council was presided over by a man who had won the title of the Liberator of the Indigo Slave.

The monstrous nature of the Bill will be evident from the first Section which provides—

"If it shall be proved to the satisfaction of a Magistrate that the inhabitants of any village or villages or members of any community within his jurisdiction or any large number of them have wilfully and in combination with one another committed all or any part of the offences defined in sections 143, 146, 425, & 441 of the Indian Penal Code, or been guilty of abetment (as defined in the said Code) of any of the said offences, it shall be lawful for such Magistrate to impose a fine upon the inhabitants of such village or villages or upon the members of such community or upon any specified class or caste of the said inhabitants or members."

Indeed, it is painful to note that, on the eve of Sir John Peter Grant's administration, a measure should have been brought in his Council, and apparently with his approbation, which was opposed to the fundamental principles of the

Criminal Jurisprudence of England. It was suggested in palliation, that the measure was forced upon him, but his share and responsibility for the Bill had been pointed out by the *Hindoo Patriot* in the following remarks which give an impartial estimate of the situation :—

"We are aware that the measure was extorted from him by a high political pressure. The noisy agitators of the Landholder's and Commercial Association openly sympathised with by the Supreme Council under the leadership of Sir Bartle Frere and Mr. Laing, would not be satisfied with any concession save the total surrendering of the ryotry to their tender mercies. Sir John Peter Grant, who has hitherto fought the fight so nobly in the cause of the ryots, found himself at last unequal to the contest, particularly when he found the Supreme Government in the ranks of the opposition. Thus placed on the two horns of a dilemma, he for once followed Falstaff's principle that prudence was the better part of valour, and kept the planters in good humour by promising the sweeping measure."

After all, the Bill was rejected on the 13th December 1862, during the administration of Sir Cecil Beadon. Sir Ashly Eden was then a member of the Bengal Council, and to him belonged the honour of formally withdrawing the Bill. It is striking to note, as had been pointed out by the *Patriot*, that to the author of the Indigo Revolution, was fitly assigned the task of giving a decent burial, to a measure, which was opposed to the vital principle of that revolution.

The transition from legislation to litigation is not abrupt. And we take in hand, the law suits connected with the indigo question. The first and foremost was the celebrated trial of the 'Nil Durpan case' which will be dealt with fully in the next chapter. One result of the *Nil Durpan Trial* was, that the Supreme Court became the planters' vantage ground for crushing their enemies with flaming volleys of law. The 'Political Judges' of the Court as the *Hindoo Patriot* of the time described them, showed their readiness to extend a helping hand, and the planters were shrewd enough

to transfer their fight with the Government into the arena of the Supreme Court. Hardly had the excitement of the *Nil Durpan Trial* subsided when another libel case was instituted against no less a person than Sir John Peter Grant, the Ruler of the province. In a volume called "Selections from the Records of the Government of Bengal—No. XXXIII Part III. Papers relating to Indigo Cultivation in Bengal," and published under the authority of the Lieutenant-Governor of Bengal, appeared a letter No. 210 C.T. dated the 7th August 1860. The letter was addressed by E. H. Lushington Esq. Offg. Commissioner of the Nuddea Division, to the Secretary to the Government of Bengal, in connection with a very serious affray in which a murder was committed. Mr. Lushington wrote in para 7 as follows:—

"I greatly regret, from circumstances detailed by Mr Skinner, of Mr. John Macarthur, the superintendent of the Factory (of Luckhipassa), being sick and absent at the time the affray took place, and of Mr. Driver also, the superintendent of the Concern (the Meergunge Concern), being several miles distant, that it is apparently out of the question to commit either of the persons, as having taken a criminal part in this most disgraceful occurrence, with any hope of securing a conviction, though it is quite impossible to suppose, from the fact of the *Lattials* being publicly assembled in the factory and thence going out armed to fight in an equally open manner, that such lawless acts could have been done without the previous knowledge or consent of one or both of them."

Mr. Macarthur and other offenders were put on their trial. But for want of sufficient evidence they were acquitted. Mr. Macarthur then brought a suit for damages in the Supreme Court, against Sir John Peter Grant for having published the above para which contained a libel against him, without reasonable excuse. The damages were laid at Rs. 10,000, to compensate, as the *Hindoo Patriot* remarked, for the heavy

losses sustained by the factory during the late strike. The plea of privileged communication was taken by the Advocate General, though to no effect. The Chief Justice Sir Barnes Peacock delivered judgment on the 16th May 1862 after Sir John Peter Grant had laid down the reins of Government, and assigned nominal damages of one rupee. The judgment fully discussed the law as to privileged communications, and cannot fail to be of great interest, being the finding of one of the most eminent lawyers that graced the Bench. We give the judgment at the end of the chapter, as it appeared in the *Hindoo Patriot* reproduced from the *Phœnix*.

While the case against the Lieutenant Governor was pending, the planters aimed a shot against another victim but it missed its mark as he was beyond striking distance. The victim was no other person than the Editor of the *Hindoo Patriot*—the immortal Hurish Chandra Mookerjee. He raised a regular crusade against the oppression of the planters and helped the ryots of Bengal in their hour of affliction, both with his pen and purse. The people of Bengal will ever remain grateful for what he did and worship his sacred memory in the sanctum of their hearts. Verily the *Bengalee* of the days of the late Grish Chandra Ghose wrote, "He made tremendous sacrifice of his time and money for maintaining and editing the "*Patriot*" and died a pauper for the cause of his country. No other native of India since his time has been able to show that amount of self-sacrifice for the good of his native land." His humble homestead at Bhowanipore was always open to receive aggrieved persons of all classes and he disinterestedly toiled for their welfare. It may be said of him that he showed not only by his writings but also by his example what a Hindoo Patriot should do. He never ceased from bringing to the notice of the public and of the Government, cases of outrage, high-handedness, and tyranny. It was in connection with this mission of his that the present suit was instituted.

It was believed all over Nuddea that one Huromony a peasant girl, who was looked upon as one of the beauties of Krisnagore, was carried off one day, while going to fetch water by a planter's servants, to the Katchikatta factory. One Mr. Archibald Hills was then the manager, or *ckhota saheb* of the factory under the general superintendence of Mr. J. Forlong. It was reported that he was present at the scene of occurrence and rode after the party. It was also alleged that Mr. Hills had kept her in his room till about 11. 30 P. M. and had then sent her back in a *palki* with closed doors. The story was told by the Rev. C. Bomwetsch, before the Commission. The President, Mr. Seton-Karr, requested the Magistrate of Krisnagore to enquire about the correctness of the story Mr. W. J. Herschel, the Magistrate who had gone closely into the evidence in regard to the case, said in his reply that the abduction seemed very clearly proved, though no other charge was tenable. It seems probable that the case of Haromony gave the cue to the author of *Nil Durpan* for the story of the abduction of *Khetramoney* whose rescue has given us one of the most memorable scenes in the domain of fiction.

The Hindoo Patriot in one of its issues gave currency to the story and denounced Mr. Hills, for having forced her person. Mr. Hills sought the refuge of the Supreme Court which was denied, for want of jurisdiction. He therefore filed a suit for damages in the Court of the Principal Sudder Ameen of the District of 24 Perganahs, and valued the suit at Rs. 10,000. While the suit was pending, Babu Harish Chandra died; but the vindictiveness of the planter continued, and overcame the English instinct of chivalry. The widow of the illustrious deceased was made a defendant, and the proceedings went on. However the case was ultimately compromised. Mr. Hills withdrew the whole claim for damages and the widow had to pay Rs. 1000 as costs. It was most unfortunate

that the great Harish Chandra did not live long enough to vindicate his conduct but died in the thick of the fight. His services were thus lost to his countrymen when their need was the sorest The *Hindoo Patriot* of 1862, spoke thus of the settlement of the suit :—

"The great libel case against the *Hindoo Patriot* or rather its former proprietor terminated at the Alipore Court in a manner which has transported the Indigo Faction to the Seventh heaven of rejoicing. We cannot however felicitate our planter friends on the result when it is remembered that the master spirit, which lent its giant strength to the working out of the great social revolution in Lower Bengal has unhappily taken flight to its long home. We have been informed that the evidence did not support the charges against Mr. Hills personally, still it disclosed facts about the Indigo system which when published will do the work of a second Indigo Commission."

The people of Nuddea in which the alleged event happened, were not silent in their recognition of the services rendered by the illustrious dead when the district was under the fetters of Indigo factories. A meeting was held in Krisnagore on the 26th july 1862 to do honour to the memory of Hurish Chandra Mookerjee and raise subscriptions in aid of the memorial Fund started in Calcutta. The subscription-list was of a most representative character. It was headed by the Maharaja Bahadur Shuttesh Chandra Roy and contained contributions of ryots themselves. We find from the *Bengalee* of 1876 that the meeting was organised by the late Rai Denobandhu Mitra, who was then a Superintendent of Post Offices in Nuddea. The foremost names that have come down to posterity as friends and benefactors of the Factory Slaves in Bengal are those of Hurish Chandra Mookerjee and Denobandhu Mitra. And we are delighted to behold the spectacle of the author of *Nil Durpan* playing the part of a high priest in the Hurish worship at Krishnagore.

SUPREME COURT—MAY 16, 1862.

John MacArthur vs. *Sir J.P. Grant.*

His Lordship directed his remarks as to whether or no there was any justification in publishing privileged communications or circulating them. That the extract concerning Mr. MacArthur was a privileged communication there could be no doubt. Not even the House of Commons could publish to the public any communication which was privileged. He mentioned a case in which a member of the House of Commons, was prosecuted for publishing, something addressed to him, apart from the proceedings of the House, containing, as it proved to be, matter of a defamatory nature to some individual concerned. Damages were awarded against this member of the House of Commons, and he thought very justly. On the same ruling it was quite clear that if the House of Commons received a memorial reflecting against the character of an individual, and published the same in any shape other than the usual Proceedings of the House, in any pamphlet form, or public newspaper, it would become an actionable case if the allegations in the memorial turn out to be false. If, then the House of Commons is not at liberty to publish any thing defamatory of any individual, save and except as in duty bound, as embodied in the Proceedings of the House, it follows the Lieutenant-Governor can have no power to publish Selections from the Records of the Government reflecting upon any individual. Now, suppose an individual was to write a private letter to the Lieutenant-Governor, saying that he believed a murder was committed in the factory he lived in, and that A. B., was the person who perpetrated the deed, asking authority at the same time to offer a reward of a £ 100 for the apprehension of A. B., who had fled from the District. Accordingly the Lieutenant Governor issues a proclamation in the name of Government for the apprehension of A. B., and publishes the letter in the shape of Selections bound in a volume, or in the public newspapers. Now, if A. B., is actually the offender, the

Lieutenant Governor could not but be justified in publishing the information in any shape he pleased. But if the case turned out otherwise *i. e.*, if A. B. had not committed the murder, then the Lieutenant-Governor would certainly be liable to be prosecuted for libel.

It has been attempted to be shown that Mr Grant had wilfully circulated the libel, after he had read the decision of Mr. Steer who acquitted MacArthur of the alleged crime. Mr. Walter Brett was put into the witness box to prove that Mr. Grant took in the *Englishman* a day before Mr. Steer's decision was published and for the purpose of proving that Mr. Grant read that decision and after that fact distributed copies of the book containing the libel. His Lordship was bound to say that as far as the question of libel or no libel went, there can be doubt that it was, although it was possible, nay probable, that the Lieutenant-Governor never knew that the book before the Court even contained the passage against Mr. MacArthur. It was very possible that the passage was permitted to stand a part of the book without Mr. Grant's knowledge or permission. But, for all that, he is responsible for that passage as it occurs in a work published under him and by his authority. The fact of the book being circulated to select parties does not alter the case in any way. It is clearly laid down that if a defamatory document, being a part of the Record of the Government, is published in any shape other than as the proceedings of the House either in pamphlet form or bound in a volume and circulated among a few, or in a newspaper for the full gaze of the public, the publisher is liable for the libel committed. It would appear also that upon the requisition of the Secretary to the Landholders and Commercial Associations of which Mr. MacArthur was a member, Mr. Seton-Karr delivered to the gentleman six copies of the Selections from the Government of Bengal Part III. The Court upon all these facts think that Mr. Grant has published a defamatory matter against Mr. MacArthur without any legal cause or reason. The next point the Court have to consider is whether Mr. Grant in publishing that libel entertained "malice in fact" *i. e.*, wilful intention by the publication of the libel, to injure the character

of Mr. MacArthur or simply "malice in law" which is inferred from the bare circumstance of the publication of the passage against Mr. MacArthur. From all that was before the Court his Lordship was bound to confess he believed there was no ground for supposing that Mr. Grant entertained "malice in fact" in the case. The Lieutenant-Governor was here and has candidly avowed the libel He came here for the purpose of boldly meeting the case in the face, he has not attempted in any way to screen himself from the consequences. He has not told us that the passage reflecting on Mr. MacArthur was put in without his knowledge, or that he was not responsible for the accidental insertion of the said passage, or any thing else that would lead us to believe that he tried to shirk away the slightest amount of responsibility that rested on his shoulders and his alone. The fact also of Mr. Seton-Karr sending six copies to Mr. Fergusson the Secretary of the Land holders and Commercial Association goes to prove that Mr. Grant did not attempt to evade any consequences that might occur upon the publication of Mr. Steer's decision from the Sudder Board. The Court was of opinion upon these facts that there could be no two opinions as to the motive of the Lieutenant-Governor. There was nothing to show that Mr. Grant wished to injure Mr. MacArthur in any way, *i. e.*, he entertained no "malice in fact," but certainly the malice which the Law assumes from the mere fact of publication.

The decision of the Court being such upon this point, we next come to the question of damages. His Lordship here cited several authorities to prove that in such a case as was before the Court, not only was it imperative upon the plaintiff to prove "malice in fact" on the part of the defendant, but also when the Court came to consider the question of damages to prove what amount of injury, if any, was sustained by the plaintiff, personal injury and injury done to his character. Now the question is what injury has Mr. MacArthur suffered by the publication of the Selections from the Government of Bengal No III? Mr. MacArthur has not been into the witness box to prove that he had sustained the slightest amount of injury, personal or moral. Neither has Mr.

Fergusson the Secretary to the Landholders Association nor Mr. Robinson, a member of the said Association said any thing that would lead the Court to believe, that since the publication of the passage against Mr. MacArthur, who is also a member of the same Association, he is fallen in the estimation of his brother members or any other of his acquaintances. Mr. MacArthur is still a member of the Landholders Association although the book containing the libel was circulated among all the members—a fact which goes to prove that no one member of the Landholders and Commercial association thought Mr. MacArther guilty of the charge of being accessory to the murder from the fact of the passage in the book being published. And then we have the fact that Mr. Back-with, the owner of the factory, where the murder is said to have been committed thought not the worse of Mr. MacArthur because the said libel was published against him. The plaintiff might have been said to have sustained severe injury if upon the publication of the libel his employer dismissed him from the post of manager which certainly he would have done if he believed the statement against Mr. MacArthur, that he 'was accessory' to a murder committed in the factory under his charge. The defendant did not ask Mr. MacArthur though he might have done so with every justice "What damage have you sustained from the publication of the libel?" But the defendant does not ask this question neither does the plaintiff or the other witnesses, called in support of the pleading speak a single word as to the damages sustained by the said libellous publication although it was imperative on Mr. MacArthur to have stated at once the nature and amount of damages incurred by him and no less imperative on the witnesses called on his behalf because they were more capable of calculating the damage which plaintiff might have suffered but which he naturally might have overrated. But not a single word has been said of damages incurred by the publication of the libel It might be said that the fact of a copy of the Book in question being sent to the Secretary of that powerful Society, that for the diffusion of Christian Knowledge in India, and also two or three other influential gentlemen in England, has in favour of it, an inference very much against the character of Mr. MacArthur. But His Lordship thought differently.

The Secretary to the Society for the spread of Christian Knowledge, and the other gentlemen who are in receipt of the Book have no means of knowing Mr. Mac Arthur or such a person as Mr. Mac Arthur as manager of the factory mentioned. So long therefore as the persons in England in receipt of the work are not personally acquainted, nor ever indifferently acquainted with him, so long Mr. MacArthur can not be said to have sustained any damage in the eyes of those personages from the fact of certain defamatory matter being published against him in Part III of the Selections. The Court is of opinion that so far from Mr. MacArthur having suffered any damage personal or real, from the fact of the publication of the libel he was much rather raised than lowered in the estimation of the Landlolders and Commercial Association of which he was a member. A fund has been set apart to pay for this prosecution by the Association, a fact which certainly goes to prove that Mr. MacArthur has in no way suffered in the eyes of his friends and neighbours. Such being the facts of the case the finding of the Court may be summed up thus :—that defendant had published a dafamatory matter against Mr. MacArthur without any legal ground or cause; that there was all absence of "malice in fact" on the part of defendant; that no damage was proved to have been sustained by the plaintiff.

Before giving final Judgment, his Lordship cited a parallel case in which the jury, not finding either "malice in fact" or any damages, personal or real, sustained by plaintiff, awarded nominal damages of 2 shillings. The case was one in which a newspaper reprinted a certain defamatory article from another paper, with comments of his own rather condemnatory than in favour of it. Neither of the two principal points mentioned by his Lordship *viz*, "Malice in fact" against the plaintiff, or damages sustained by him being proved, the jury very wisely awarded nominal damages.

The Court is of opinion that in the case before it, neither "Malice in fact" on the part of the defendant nor any damage sustained by the plaintiff has been proved. It would therefore award nominal damages of one Rupee with costs.—*Phœnix.*

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CHAPTER V.

NIL DURPAN.

When the oppression of the indigo planters reached its high water mark, *Nil Durpan* was published from a printing press at Dacca. The author was the late Rai Denobandhu Mitter Bahadur. He was born in the district of Nuddea, the principal scene of the Indigo disturbance. An indigo factory stood not far from the humble cottage which was the home of his infancy. If there was one thing more than another, which was ever present in the mind of the author of *Nil Durpan*, from the earliest dawn of reason, it was the stern reality of the blue dye. This was reflected in the 'mirror' (*durpan*) he prsented to the public. He did not give his name in the book which was described as "written by a certain traveller for the good of ryots, suffering from the bite of the cobra-de-capello in the form of the indigo planter." The date of the publiaction was 2nd Asswin 1782 (Saka Era), corresponding with the middle of September 1860.

The author was then in the service of the Government as Superintendent under the Post Master General, Bengal. As regards the opportunities which he had of experiencing the sufferings of the ryots, the late Rai Bankim Chandra Chatterjee Bahadur C. I. E., the greatest literary genius of Bengal, writes as follows in his short sketch of the Life of Denobandhu Mitra.

"In consequence of Government work, he had to travel again and again from Manipore to Ganjam and from Darjeeling to the seas. It was not merely travelling by road or visiting a town; he had to go from village to village for inspecting post offices. He had extraordinary power of mixing with people and he used to mix gladly with people of all classes. He knew intimately low-caste villager's daughters like *Khetramony*, old village women like

Aduri, village ryots like *Torap*, *Dewans of Indigo Factory*, *Ameens Tagiigeers* &c. He knew how they lived and how they talked and his pen pictured these with fidelity. No other Bengalee writer has had such success. He had travelled much in these districts where indigo was manufactured, and was acquainted in all its details with the oppression of the ryots by the planters of that time. None knew it so well as he knew it.

But Intellect must go hand in hand with Emotion. And Bankim Chandra has not omitted to show how Denobandhu Mitter was eminently fitted by the extraordinary quality of his heart to mirror the sufferings of others. He observes :—

"Mere knowledge counts for nothing. There is no creation without sympathy. Not only was Denobandhu's knowledge of society astonishing, his sympathy was very quick. But the matter of wonder and especial appreciation is this, that his keen sympathy was with every class of people. I have known none other touch the heart of the sorrows of the poor and the afflicted as he did. By virtue of his natural sympathy, the misery of the oppressed ryot appealed to his heart like misery felt by himself, and the poet was constrained to pour out the fountain of his heart through his pen. In *Nil Durpan*, the author's experience and sympathy combined in full measure and it was the most powerful of all his dramas. In other dramas there may be other merits, but in none of them was the power of *Nil Durpan*. Though the chief aim of Nil Durpan was the correction of a social wrong, still it was most excellent as a piece of poetic art. The enchanting sympathy of the author has made all full of sweetness."

Mr. R. C. Dutta, the foremost man of letters in Bengal, speaks of Denobandhu Mittra in his book called "The Literature of Bengal." In Chapter XVII, headed "Dramatic Writers.—Dinobandhu Mittra" he commences his notice of *Nil Durpan* as follows :—

"Dinobandhu, who was born in Chauberia village, in the Nuddea District, had ample oportunities to note the doings of the

planters and their subordinates. At last in 1860, he published his first dramatic work, *Nil Durpan* anonymously, bringing together facts and incidents which had come under his observation, and weaving them into the main plot with the skill of a true artist."

The relation of the drama to the stirring period which followed it has been beautifully described by Pandit Siva Nath Sastri, the leader of the popular Brahmo movement, in his Bengalee essay, "National awakening and National literature." He says that national literature gives rise to national awakening, and shows how the writings of Voltaire and Rousseau brought about the French Revolution, the works of William Llyod Garrison and Theodore Parker paved the way for the American Civil War, and Mrs. Stowe's "Uncle Tom's Cabin," tolled the knell of the slave trade. He also refers to the Indigo-agitation thus:—"Why go we to a distance? Within the time of our own recollection, we have seen, that in this province of Bengal a great awakening was brought about by the help of national literature. When the celebrated patriot Harish Chandra Mookerjee took up his pen in the *Hindoo Patriot* the planters' citadel of sin trembled. When people's minds were thus excited then was published Denobondhoo Mitter's celebrated drama, *Nil Dupran*. We shall never forget the great upheaval which it caused in Bengalee society. All of us children, oldmen and women became almost mad. It was the talk in every home and in every lodging was its representation. Bengal began to quake from one end to the other, as if from the effects of a seismic shock. As the result of this great upheaval, the oppression of the indigo planters vanished for ever from Bengal."

In the foregoing quotation mention has been made of the representation of *Nil Durpan*. In this respect its place of birth was not mute but echoed to the sound to its west. The Dacca Correspondent of the *Harkara* of the 12th June

1861 wrote—"Our native friends entertain themselves with occassional theatrical performances, and the *Nil Durpan* was acted on one of these occasions." The excitement was not confined to Bengal only. There was response from Bombay and people there made arrangements for the performance of the drama, as described by the *Hindoo Patniot* of the 5th September, 1861.

"We learn from the *Times of India* that the Editor of the Bombay *Somachar Darpan* has completed arrangements to bring the *Nil Darpan* on the stage of the GRANT ROAD THEATRE. Is there no Editor of the *Englishman* type there to bring the libel-theatring Editor to his bearing?"

We take this opportunity to inform our readers that *Nil Durpan* occupies the foremost place in the history of the Public Stage at Calcutta. On the 7th December, 1872 the first public theatre in Calcutta was ushered into existence with the performance of *Nil Durpan*. Though the stage accessories were of the crudest kind, nevertheles the performance created quite a sensation in Calcutta. At a meeting held on the 7th December, 1900 to commemorate the red-lettered day for the native Stage, Babu Amrita Lal Bose, himself a dramatic genius and the popular manager of the Star Theatre in Calcutta, in his address, classified the history of the Stage into four periods and designated the initial period as the 'Denabandhu era.' He further observed that the quick success which was achieved at the very inception of the Stage was chiefly due to the esteemed popularity in which *Nil Durpan* and the other works of Denobandhu were held, and the great enthusiam and eagerness displayed for their representation. In 1898 he revived the performance of *Nil Durpan* for the younger generation, and spoke of it thus :—

" The chief cause, which originated this tragedy is, happily for all, past and gone ; but its intrinsic merit as a high class drama and the vivid scenes of domestic life in rural Bengal, with which it is

replete, have raised *Nil Durpan* to the dignity of clasical literature and will make it endure as long as the Bengali language lives."

All the preceding remarks were made long after the indigo strife had ceased. The foremost idea in the minds of their authors was literary and historical criticism and not any political reflexion. Sir W.W.Hunter, however, seemed not to have lost sight of the political aspect of *Nil Durpan.* In his celebrated history, "*The Indian Empire,*" he alludes to the dramatic revival in India and observes that some have a political significance, and makes mention of *Nil Durpan.* In this connection it is gratifying to note that even the *Englishman* which denounced the drama in 1861, changed its tone forty years later. This will appear from its article on "Literary Bengal" in its issue of the 4th April, 1901. We take the following :—

"Of the Bengalee dramatists the only one well known to European readers, is Denobandhu Mitra. But in his case again the popularity was scarcely literary. He wrote *Nil Durpan*, regarding the political effects of which Mr. Buckland gives so interesting a narrative in his book about the Lieutenant Governors of Bengal. * * * Yet there are passages in Nil Durpan which Bengali students say are matchless for grace and purity of style."

The remarks and observations quoted before are intended to guard the readers, who have not read *Nil Durpan*, against the most undeserving epithets in which the drama was described both by the Bench and the Bar at the trial of the Rev. Mr. Long. The author himself was not spared. Most unjust motives were ascribed to him. It was even insinuated that he had an eye to his own preferment in writing the book. Such were the absurd innuendoes contained in the following lines penned by the Dacca Correspondent of the *Harkaru*, in its issue of the 29th June, 1861 :—

"At any rate as you are aquainted with the name of this *friend of the poor and needy*, keep an eye upon the appointments and

promotions in connection with the Post Office and you may be edified some morning"

The words in italics seem to be a pun upon the name of the author—*Denobandhu, (friend of the poor)*—and evidently imply that his name was not unknown to the parties libelled, prior to the prosecution of the Rev. James Long.

But how different was the actual state of things as regards the author's prospects in the service will appear from the remarks of Mr. James Routledge, sometime Editor of the *Friend of India* and Special Indian Correspondent of the *Times* (London). He writes in his book—"English Rule and Native Opinion in India":—

"The *Nil Durpan* bade fair for the moment to wreck the author's prospects ; and is to his honour that he was willing for them to be wrecked, if by giving up his name as author, he could have saved Mr Long."

Mr. Routledge speaks of the author, as a man of genial temper to whom bitterness was unknown, and who was said to have no enemey. He was made a Rai Bahadur afterwards, but as Mr. Routledge mentions, it was for his good organising power in the Lushai Expedition of 1871.

Babu Bankim Chandra Chatterjee has also remarks to that effect in his *Life* of Denobandhoo Mitra:—

"He wrote *Nil Durpan* and laid the Bengal peasantry under a debt never to be repaid. He knew full well that when it would be given out that he was the author of *Nil Durpan* there would be chances of mischief happening to him. Knowing all these Denobandhu did not desist from publishing *Nil Durpan.* It is true that the author's name was not given in *Nil Durpan*, but Denobandhu did not take any steps to keep the author's name concealed. After the publication of *Nil Durpan* all the people in Bengal somehow or other came to know that Denobandhu was its author. Denobandhu felt much distressed at the sorrows of others, and *Nil Durpan* was the fruit of this quality. In as much as he fully felt the suffering of the ryots of Bengal in his heart, *Nil Durpan* was written and published."

To relate the circumstances which led to the translation of the drama we can not do better them quote the facts given by Mr. W. S. Seton-Karr in his lett-r dated the 27th July 1861.

"About the month of October or November last the Rev. Mr. Long brought to my notice the existence of this drama in the original Bengali. I felt quite satisfied that the drama was the genuine production of a native resident in the Moffusil. On dipping into the original I was struck with the thorough knowledge of village life which it displayed, with the pointedness of the Bengali proverbs some of which were new, while others were familiar to me and with its colloquial style and vernacular idiom.

After this, the drama was translated by a native with my sanction and knowledge, as some persons were desirous of seeing it in an English form and 500 copies were printed and sent to the Bengal Office. Remembering how little is known to the authorities and to Europeans generally, of the undercurrents of native society, how constantly men of the greatest Indian experience, the widest benevolence, and the largest sympathy, had lamented their utter inability to penetrate the recesses of native thought and feeling; how repeatedly Government itself had been blamed, during and before the Mutiny for paying no heed to cheap publications emanating from the native press and indicative of popular feeling, I thought the work was one to which attention ought to be called. And to this opinion I must still adhere, however erroneous the mode of calling attention to the drama may have been."

The Rev. James Long took upon himself the task of having the drama translated in English, to open the eyes of the Government and the English Community. The actual translation was made by the immortal poet of the *Meghnadbadh*,— Michael Madhusudan Dutt. The translation was hurried through in a single night, and this would account for the many defects in the English rendering of the drama. In a translation, much of the force and beauty of the original is lost, and this becomes most conspicuous where one of the beauties of the original consists in the faithful reproduction of rustic thoughts and feelings, clothed

in provincial dialect strikingly well suited to them. But the difficulties with which an English translation of *Nil Durpan* is beset can only be realised by those who have read the book in the original. In spite of all, the translation did not fail to present a glimpse of the original to English readers. This was borne out by the testimony of the great historian Marshman himself. In his letter to the *Friend of India* occurs the following passage.

"We hear with some little surprise of the extraordinary sensation created in Bengal and more especially in Calcutta by the *Nil Durpan.* In spite of all the disadvantages of a translation it is evidently written with talent. In the original it must have created a powerful interest in the native community."

However Mr. Long's publication was not the only one, for the *Hindoo Patriot,* of the 26th May, 1862, writes :—

"The London SPECIAL of the *Harkaru* states that Messrs Simpkin, Marshall and Co. have published the *Nil Durpan* in London. Pity the justice of Sir Morduant Wells cannot reach these enterprising publishers.

The translation was not confined to English alone, Babu Bankim Chandra writes, that *Nil Durpan* was translated and read in many languages of Europe and points out that this good fortune has not come to any other Bengali book.

Before proceeding further we record here a striking event which occurred while *Nil Durpan* was being written. It is not uncommon to find in history instances where persons blessed with some mission in life, are divinely rescued from sudden death. We lack the vision and faculty divine and thus fail to read the manifestations of an over-ruling Divinity that shapes our end. These imminent dangers are blessings in disguise and glorified are the mortals whom they visit. Such was the case with the author of *Nil Durpan.* When and how this happened has been

beautifully described by Rai Bankim Chandra in the following lines :—

One night, Denobondhu was crossing the Megna, while composing *Nil Durpan*. When the boat was about four miles from the shore it suddenly began to sink. Oarsmen, helmsman and all commenced swimming: Denobondu was unable to swim. Denobondhu sat silently in the sinking boat, with *Nil Durpan*. in his hand. Suddenly then the feet of a swimmer touched the earth. He called out to them all and said :—" No fear, the water here is shallow, there must be a chur close by." Really there was a chur in the vicinity. The boat was brought there and run upon the chur. Denobondu came out and sat on the roof of the boat, still the wet *Nil Durpan* was in his hand. The Megna was then ebbing out, but soon the high-tide would return and the chur submerge, and the disabled boat would be carried away filled with water. How could life be then saved was the thought of the boat's crew. Denobondhu was also thinking. Night was then deep and the darkness thick. On the four sides was the fear-some sound of the dashing stream. From time to time were heard the cries of the birds of night. Finding no means for the saving of life Denobondhu was beccming completely hopeless. At this time was heard at a distance the splashing of oars. All cried aloud over and over again, and the passengers of the distant boat answered. They came there quickly, and saved Denobondhu with his companions.

Thus the author of *Nil Durpan* escaped a watery grave in the bosom of the Megna. It is said that when Clive thrice missed the deadly shot aimed at himself, he exclaimed that he was destined for something great. Well might the author of *Nil Durpan* have exclaimed on planting his moist feet on the desolate bank of the Megna that his drama was meant to fulfil some mission. What that mission was we have tried to disclose in these pages.



CHAPTER VI.

TRANSLATION AND TRIAL.

In publishing the translation of *Nil Darpan* from the Bengalee, the Rev. James Long wrote an introduction* in which he set forth his views as to the origin of the work and why it was translated. The book was printed at the "Calcutta Printing and Publishing Press"-No 10 Westons Lane, by one Mr. C. H. Manuel. The title page was worded thus :—"Nil Darpan or The Indigo Planting Mirror, a drama translated from the Bengalee, by a Native." The number of copies struck was 500, and the printer's bill was paid by Mr. Long himself.

When the books were out of the press by the spring of 1861, several copies were distributed under the frank and seal of the Government of Bengal. Mr. W. S. Seton-Karr, former President of the Indigo Commission, and then Secretary to the Government of Bengal, was responsible for the distribution. It will be seen from the distribution list † which was produced at the trial that some of them were distributed under instructions from Mr. Long and others by the Bengal Office itself. In the letter mentioned before Mr. Seton-Karr had his remarks on the publication and distribution, and we give them below :—

"The list given in at the trial contains the number of copies issued, or 202, being not one half of those printed, and the circulation took place with my knowledge, but owing to a misconception on my part, not with that of the Lieutenant Governor.

* See pp. 6 & 7 of the Trial. † See pp. 25 & 26 of the Trial.

The said list is one of a class of papers not usually brought on record, and it might with ease have been torn up, without blame being imputed to any one, and without its existence being known out of the office. I have taken care that it should be preserved, not from any spirit of defiance, but because however erroneous my judgment may have been, I felt that it would ill become me to attempt to suppress or conceal anything which shewed the real extent of what had been done.

A great deal of censure has been passed upon the secrecy with which this book was criculated. I contend that the very fact of circulation under official frank shews that no secrecy was attempted or intended beyond the unavoidable secrecy of the Post Office. Had it been intended, as has been stated, to stab reputations in the dark it would have been comparatively easy to have circulated a number of copies by the ordinary Book postage which mode could have afforded no clue whatever as to the sender.

After all, the whole Indian circulation amounts to 14 copies and most of those have been recalled or destroyed. No copies were sent to any newspaper or public body in Calcutta, because it was considered that to make selections would be invidious, and that, on the whole those who had taken one side or the other in the Indigo crisis were hardly in the position to form a fair estimate of any such popular representation of native feeling. Any large local circulation would probably have done no good. As a bare fact, the impress of the Government frank must, I contended, disprove the charge of a wish to calumniate in secret, and of any underhand proceeding. Indeed it will hardly be contended with seriousness that any one wishing to produce irritation or to hurt the feelings of others without detection and in safety from any possible consequences, would choose such a mode of circulation as the sending to four papers in four different parts of India ; and the conductors of the English press remote from the scene of controversy, might take some little interest in a genuine expression, however exaggerated, of native feeling by native authors.

The copies sent home were addressed to gentleman holding

different political opinions and these gentlemen had, several of them, been furnished with copies of published documents, relating to the Indigo question. But while I contend that my conduct has been straightforward and honest, I have no hesitation in expressing my most sincere regret that any such publication should at all have taken place. It has excited great irritation; it has given rise to much misconstruction both as to the Government of Bengal and to individuals; it has seriously offended a very respectable and influential body of men for whose difficulties I have every sympathy and whom, officially and nonofficially, I have always desired to assist, even when I differed from their views and opinions; and it has resulted in the successful prosecution of a very excellent Missionary of the Church of England. At the sametime, while fully acknowledging the error committed in this instance, my earnest conviction is, that, putting aside the heat which the Indigo question has excited and looking to ordinary times, it is not the transmission of such publication to Editors and to official and unofficial Englishmen that is likely to do mischief, but their circulation among the Native public unnoticed by Government and unknown to the European community. Under this conviction I acted without (as I must on reflection admit) sufficiently considering all the peculiar circumstances which rendered the publication of this work unwise."

The publication greatly annoyed the planters, most of the English Editors and their friends. The drama was to them what red rag is to the bull, and they lost no time in trying to elicit information as to who was the translator and under what circumstances it was published under the frank of the Bengal office. The steps they took with the above view will appear from the following correspondence—

The Landholders and Commercial Association,

To E. H. LUSHINGTON ESQ.,

Secretary to the Government of Bengal.

SIR,

I am directed by the General Committee of the Association to beg that you will inform them if it was with the Sanction

and authority of the Government of Bengal, that a publication entitled "*Nil Durpan*" has been circulated through means of the Post Office under the official frank and Seal of the Bengal Secretariat.

I myself have seen an envelope containing that publication so franked and circulated, and, therefore, there can be no doubt of the fact.

If it has been done without the sanction or knowledge of the Government of Bengal the Committee will expect a formal and official disavowal of the proceeding, and that the names of the parties who have thus made use of the name and means of Government to circulate a foul and malicious libel on indigo Planters, tending to excite sedition and breaches of the peace, be given to us in order that they may be prosecuted with the utmost rigour of the law.

I have the honor to be
SIR,
Your most obedient Servant,

Calcutta, the 25 May 1896. (Signed.) W. F. FERGUSSON,
Secy. Landholders and Coommercial Association of British India.

Landholders and Commercial Association of British India.
Calcutta, 26 May 1861.

E H. LUSHINGTON ESQR.
Secretary to the Government of Bengal.

SIR,

I annex copy of a letter, which is addressed to you on the 25th instant to which I have not received any reply.

I am directed by the General Committee of the Association to say, that unless they receive a reply in the course of tomorrow the 30 instant they will appeal to the Supreme Government in order

that they may be in a position to communicate with the authorities in England by the mail which leaves on the 3rd proximo.

I have the honor to be

SIR,

Your most obedient Servant,

(Signed,) W. F. FERGUSSON,

Secretary.

The Official circulation of the Nil Durpan.

No. 1426 A,

FROM THE SECRETARY TO THE GOVERNMENT OF BENGAL.

To, W. F. FFRGUSSON, ESQ.

Secretary Land holder's and

Commercial Association of British India.

Dated Fort Willam 3rd June 1821,

SIR,

I am directed to acknowledge of the receipt of your letters of the 25th* and 29th ultimo, the first of which did not reach the Lieutenant Governor until after his return to Paresnath, the 30th.

*The letter of the 25th not received by the undersigned, till after the receipt of the duplicate forwarded with the association letter of 29th
Sd. E. H. Lushington, Secy.

The Lieutenant Governor finds that copies of an English translation of the publication named in your letter were sent to certain individuals through the Post Office, under the official seal and frank of the Bengal Secretariat, as mentioned by you. This occurred during his absence from Calcutta and was not by his order. The publication in question however he finds is no libel, and does not, so far as he is aware, infringe the law. It is an English traslation of a work of fiction an original Bengalee drama of a popular order, in which, obviously, all the *dramatis personæ* are imaginary, and the story is manifestly a fable. It has no interest but as an indication of strong popular feeling. As such, however, it has

significance. It does not appear to the Lieutenant Governor that even the original Bengalee drama, judging from the translation, is likely as the Association supposes, to be of a tendency to excite any class of persons to sedition or breaches of the peace. In this respect however, it is obvious that it is vernacular plays, not English translations. that may be dangerous. Nor can the knowledge of respectable official or other European gentlemen, of the existence of such indication of popular feeling as this, be anything but a security agains actual sedition and breaches of the peace.

The Lieutenant Governor has read the translation since the copies of which the transmission is complained of, were despatched. It will be found that indigo planters, on whose behalf complaint is made are by no means the only class.—Native or European, criticised in this Bengalee play. Faults are as unsparingly imputed to European Magistrates, Natives Officials, and Native factory Omlah, as to indigo planters.

Neverthless the Lieutenant Governor very much regrets that by the transmission of the translation in question under the official frank of the Secretariat a misunderstanding has been caused and offence has been given to the respected class of gentlemen on whose behalf you complain. The circumstances would not have occurred but for some inadvertence or mistake. The position of indigo planters in some Bengal districts at present is one with which the Government sincerely sympathises. And nothing is more earnestly desired than the speedy introduction of a sound system for the future, such as shall carry Native feeling along with it.

I have the honor to be
Sir,
Your most obedient Servant.
(Signed) E H. Lushington.
Secy Govt. of Bengal.

The planters however were not satisfied with the letter of the Government which was deprecated by one of their exponents in

the following insolent language. "The answer written evidently by the pen of no less a man than Mr. John Peter Grant himself. There is no other man in India who could pen such a false and fair, such an utterly Jesuitical production." The Landholders and Commercial Association were bent upon carrying their threat into execution, and it was settled that prosecution was to be instituted for punishment of the real offenders. As the name of the translator was then not known, prosecution was instituted at the first instance against the printer and publisher, Mr. C. H. Manuel. Application was made against him in the Supreme Court, on the 6th June 1861, and a warrant was granted by Sir Charles Jackson for his arrest. He was arrested and placed in the custody of the Sheriff. The next day the 7th June 1861, the defendent tendered bail through his Counsel Mr. Eglington and put in the plea of 'Not Guilty'. Application was made by the Counsel for prosecution for the empanelment of a special Jury, which was granted and the case was fixed for the 11th June. On the day of hearing, before the Protho-Notary proceeded to call the names of the special Jury, the Counsel for defence withdrew the plea of 'not guilty', and admitted the charge. He also gave out the name of the Rev. James Long at the request of the latter. Sir Charles. Jackson who presided over the Sessions made the following remarks in passing sentence:— "Printers ought to know that they are reponsible for what they print and publish. However no real punishment is sought for in this case. And as the defendent has given up the name of the person and done all in his power to put himself right, the sentence of the Court is that he pay a fine of ten rupees". Thus ended the trial of the printer and publisher of *Nil Durpan* which was a mere prologue to the drama which was subsequently enacted for days together, on the stage of the Supreme Court, and in which Sir Mordaunt Wells played the role of the principal actor.

The announcement of the name of Mr. Long as the author of the publication was received by the planters and their representatives in the Press with mingled feelings of joy and sorrow. It was a matter of rejoicing with them that after all, they had an opportunity, as the *Hindoo Patriot* remarked, 'of wreaking vengence upon a member of a class which had been chiefly instrumental in opening the ryot's eyes to the monstrous deception by which, though in all respects a free man, he had been chained to the soil as a serf'. But they were sorry for the defeat of their aim at a much higher game, which was foreshadowed by the *Bengal Harakaru* in its issue of the 28th May 1861, in the following words :—

"We understand that Mr. Seton-Karr avows that it was by his order, the pamphlet was circulated, and we trust that no technicalities will prevent his being prosecuted in the Supreme Court and that no false tenderness or Court favour may keep him from being dismissed that service which he has so foully disgraced."

Such were their feelings against the Ex-President of the Indigo Commission. But as they failed to 'catch him by the hip', they were obliged 'to feed fat the ancient grudge' they bore against the clergy. The Landholders and Commercial Association were then grinding their weapons against the Rev. James Long. He however broke through silence and published a sort of explanation and regret in the *Friend of India* on June 27th, 1861.

His letter is still of great interest as a discussion of the Government policy towards the Vernacular Press. In it was repeated the suggestion of the appointment of a Curator of the Native Press, which might have led to the creation of the post of the 'Bengal Librarian'. For the information of our readers we have given the letter in full at the end of the chapter. Mr. Skrine, in his Life of Sir W. W. Hunter, speaks of the services of Mr. Long as follows :—"He was an

দীনবন্ধু মিত্রের হস্তলিপি।



Deno Bundhoo Mitter

মা পাশাকে [illegible] বইনো কাছ থেকে [illegible]

কচু মসুরে ফিরে খেলে দশটার [illegible]

~~[illegible] আঙুল দিয়ে [illegible]~~ ।

খোকা খোকা [illegible] খেলে খেলা নিয়ে তারে।

[illegible] আঙুলে দিয়ে রেখেছে বইয়ে গড়িয়ে বল্লে [illegible]

চলে এলো সবাই তার মানিকের কোলে।

[illegible] দিয়ে গেল [illegible] ও ঘোর ঘুমোয় [illegible] ।

আঙুল তুলে বলা দিয়ে খাবারটি [illegible]

ঠোঁটে ফুল ফুটে [illegible] কথা করে।

[illegible] মেয়ে আমি [illegible] জামা খায়।

ছাড়িয়ে দিয়ে পিঠের মাঝ খোলে [illegible] পাড়ির মুখে

(তিন মা [illegible] এরা) তার কি চুলে?

৩০। (বাবা বলে, তুমি [illegible] ও বোনের কাপড় করে [illegible]

early worker in a field which Hunter made his own. His "Selections from the records of the Bengal Government" published in 1855 and subsequent years cast a flood of light on Anglo Indian life a century back. There is material for half a dozen novels in these fogotten volumes". Sir William Hunter himself was so much struck with the personality of Mr. Long that he wrote of him as follows in a letter to Mrs. Hunter. "Mr. Long is most unlike a *padre* —fine bold features, large head, bushy whiskers and flowing beard, stout, immensely energetic and rather below the middle height". Apart from his holy mission he ever worked for the improvement of the Vernacular Press and always befriended the cause of suffering humanity. Blessed be they who toil for the poor and the helpless !

The people of Bengal were deeply grateful to Mr. Long for his noble services which might well be said to have been dedicated to the cause of humanity at large. The distinguished citizens of Calcutta lost no time in displaying their appreciation of him 'fallen on evil tongues'. The following letter was addrssed to him on the 12th July 1861 and the signatories were—Raja Radha Kantho Bahadoor, Raja Kali Krisna Bahadoor, Raja Norendra Krisna Bahadoor, Babu Romanath Tagore and fortythree Native gentlemen of Calcutta.

"We are persuaded, Sir, that the part you have taken in carrying through the press the translation of the *Nil Durpan* has been in perfect accordance with your cherished convictions as to the importance of enlightening the European mind here on the contents of the Vernacular Press, and we have therefore observed with pain and sorrow the bitter personal controversy in the newspapers to which your laudable efforts in this description have given rise.

That the *Nil Durpan* is a genuine expression of native feeling on the subject of Indigo planting we can with confidence certify. We are aware that there are passages in the original, put in the

mouth of females and others, which may grate on the ears of men of cultivated taste, but such passages only express the thoughts and ideas current in the order of society painted in the work. If, however, an occasional indelicacy of expression should be a reason for the suppression of a work of fiction, we fear the most ancient and best classics of our land, which are so justly valued all the world over would remain sealed from public view ; and judged by the same standard there are not a few of the master-pieces of European genius both ancient and modern, which would not suffer from the ordeal. We however apprehend that the open censure with which your effort has been visited is simply the result of an interested and factious opposition.

We have deemed it due to put you in possession of this expression of our opinion on this important question, in the belief that it may be the means of correcting the wrong impression which we have been sorry to find entertained, *viz* that the Native community do not consider the *Nil Durpan* as an embodiment of popular feeling, and that they do not appreciate the motives which actuated you to bring its contents to the knowledge of the European public. Nothing could be more mistaken than this, and we do sincerely trust and hope that this letter will remove the misapprehension so much to be lamented "

Rev James Long gave his reply on the 15th July 1861. It was worthy of the man and the occasion. We quote below the concluding paragraph.

"My humble labours as a missionary in this country have taught me to commiserate the sufferings of the masses of the people of this land, and while I have learnt to respect the energy and genius of many of my own countrymen, I have at the same time earnestly wished to urge them to show mercy to the poor, and thus to recommend those principles in the gospel, of doing justice, loving mercy, and walking humbly with God, which Christian mission have always designed to promulgate. If I suffer in this cause, it will only be in common with multitudes of far worthier men who have suffered the loss of all things in the cause of truth, rightousness and humanity."

Such was the man whom the planters wanted to make a victim of Law. The members of the Association held a meeting and it was unanimously resolved that prosecution be instituted against Mr. Long. However they were perplexed as to who should be the complainant, when Mr. Walter Brett, the then Editor of the *Englishman* come to their rescue. At his instance the case was instituted, though the sinews of war were supplied by the Association itself.

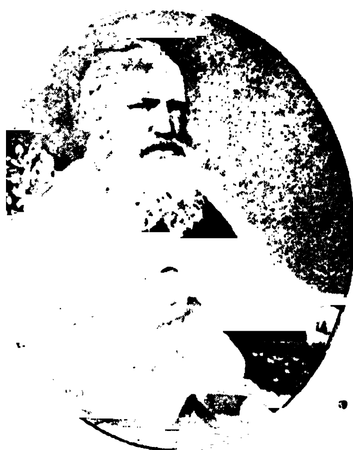
On Monday afternoon, the 15th July, 1861 the Grand Jury found a true Bill on the following counts against the Rev James Long, *viz*—for libelling the Editor of the *Englishman* and libelling the Indigo Planters of Lower Bengal in *Nil Durpan.* The trial came on Friday the 19th July, 1861, and lasted for four days.

'During the trial, the Court was filled to suffocation both by Europeans and Indians. Not an inch of space was left unoccupied. There were Europeans of every class and denomination. Civilians of every grade from Secretaries of Government and Commissioners, to young Assistants in the Service were present to show their interest in the trial. Missionary gentlemen were there to evince their mark of sympathy with a fellow-brother in his hour of affliction. Merchants, bankers and traders were gathered in such a number that it was remarked that 'there could be no-body left to carry on the business of Calcutta'. These were supplemented by native gentlemen, rich and poor, high and low. Some of the millionaires had their purses full to show to the world that if money could have saved the Reverend gentleman it would not have been wanting. It will be seen later on how the dignity of wealth was maintained on this occasion. Amid this over-whelming crowd of spectators was one figure displaying the most eager and expectant look, and we cannot pass him over. He was no other person

than the author of the original *Nil Durpan.* Mr. James Routledge says in his *English Rule and Native Opinion in India,* 'that he was present in Court and ready to exchange places with Mr. Long if that had been possible' The various feelings that agitated him may be compared to those of Bassanio when the revengeful Jew insisted upon having his pound of flesh. In these days of psychic researches, it will not be out of place, to note, that during the period of his dire suspense aud anxiety, he was told in a dream that no trouble would visit him.

We give a report of the Proceedings at the end. It will be found that on the last day of the trial, the 24th July, 1861, Sir Mordaunt Wells passed the sentence of the Court which was a fine of Rs. 1000 and imprisonment in the Common Jail for one month. It is reported that immediately on hearing the verdict Mr. Long was heard to say—"What I have done now, I will do again". The fine was paid then and there by the liberal-hearted and generous-minded Kally Prasanna Singh of Jorasanko who, it may be added here, was equally well known as a man of letters, and the standard version in Bengalee of the grand Sanskrit Epic, the Mahabharat is the living monument of his glory.

The planters however sustained a defeat in their victory. Though the tribunal of the highest Court in the land found Mr. Long guilty, the still higher tribunal of the people gave their verdict in his favour. The *Indian Reformer* of the time writes:—"The apartments of the Rev. Long in the Common Jail were darkened by the shadows, of members of the Civil Service as well as of the Uncovenanted Service, of Chaplains and Missionaries, of Gentlmen of the Press and native gentleman of all degree of respectability. Never was there a person convicted guilty in the highest court of India for whom so much sympathy was excited as for Mr.



REV. JAMES LONG.



KALLY PRASANNA SINHA.

Long." Those of the readers who have vivid recollection of the incarceration of the Hon'ble Babu Surendra Nath Banerjee, the great tribune of the people, will fully realise the spectacle caused at the trial and conviction of the Rev James Long. Popular singers of the day filled the air with his praises. Some of these songs grew immensely popular and were sung all over Bengal—in towns and villages, in houses and gardens, in huts and fields. The name of the Reverend gentleman became a household word in Bengal and will ever remain so as long as the Bengali literature will last.

We do not attempt any discussion of the various legal points raised at the trial, but there are certain allegations as to facts made by the Judges which can not stand the test of criticism. It will be seen later that Sir Mordaunt Wells was notorious for his antipathy towards the people of Bengal, and it is no wonder that such allegations should be made by him from his seat of privilege. But it is a puzzle to observe that even that oracle of law, Sir Barnes Peacock should fall into such lamentable errors. This, however, vanishes when we read in the *Hindoo Patriot* of the time that 'Sir Barnes Peacock was nothing if not political and abominated the cant of equality between Europeans and natives'. The best criticism to those allegations were made by the Hon'ble Mr. W. S. Seton-Karr in his statement mentioned before. We quote the paragraphs bearing on this point.

"The second point is the alleged imputation on the virtue of English women in portions of the drama itself. I can conscientiously say that, until the point was wrongly insisted on I did not think there were any passages capable of any such construction, and a close inspection of a work consisting of 102 pages has not discovered to me more than two or at most three passages in which English ladies are mentioned t all.

The first passage occurs in a conversation between two poor

Bengali women in a village. One woman says, "that the lady has no shame at all, and that when the Magistrate of the Zillah rides about through the villages the lady also rides on horseback with him". The speaker then goes on to say "the bou (or married woman) riding about on a horse !" The other woman has just before said, that "the wife of the planter, in order to make her husband's case strong has sent a letter to the Magistrate, since it is said that the Magistrate hears her words most attentively." To say that those words impute want of virtues to a lady because she writes a letter about a case in Court to a Judicial Officer, or that to go on to argue that it ascribes unchastity to a whole class of English women does not seem to me to be fair or resonable. No doubt it may be injudicious for ladies to write private letters to Magistrates and other Judicial Officers in order to get situations for servants, or for applicants whom they wish to befriend, and the fact of such an officer receiving and answering in Court a letter from a lady, the wife of an actual or possible litigant, on whatever subject it may be, may convey impressions to the very suspicious mind of an ignorant native; but it never entered into my thoughts to conceive that an allusion to this practice would warrant a general charge of even indelicacy, in thought or deed, against women. As regards the statement that a lady riding about the village "must have no shame,' I do most enphatically contend that this expression in the mouth of either a Hindoo or Musulman woman expresses nothing but the regular innante ideas generated by Oriental seclusion. The very words which, in Hindustani, would be *iska kuch sharam nehi hai*, and in Bengali *tahar kichchu lajja nahi*, are familiar expressions in the mouths of every Native, speaking of any act which he thinks offensive or in bad taste, done by any one who does not please him. A Native woman brought up in seclusion, with the ideas she has received from childhood generally speaking can no more understand or appreciate propriety in the unrestrained, liberal, enlightened and virtuous intercourse of men and women in our society, than we can understand or appreciate the social policy which marries girls in their childhood and consigns them through married life, or through premature widowhood to the jealous seclusion of four dull walls Any Hindu

woman, if she holds to the tenets of her fathers, is exposed to shame, if she sees the face even of her husbands' brother, and must then veil her own face, and it would be asking too much that she should be expected to understand that English men and women should sit, walk, ride and mingle together in social intercourse, without shame or embarrassment.

The other passage is put into the mouth of a jemadar, once a bearer, who says that he has obtained his situation by the influence of a planter's wife, "who wrote one letter to the Magistrate" and who never danced with any other person but the Magistrate. I have already explained this appears to me to be merely an allusion to the very comman practice of sending letters of recommendation in favour of old servants to official personages who have places at their disposal. I believe honestly that the practice has long existed and will continue to exist. But where I have heard, as I have heard of any body sending letters of this kind, it has never occurred to me to see any evil design therein ; and as to the asserted partiality of an Enlish woman for one perticular partner in a dance, it surely would be a far-fetched and uncharitable construction which would attach thereto any hidden or disgraceful meaning.

These are the only two passages which I think it necessary to notice, as they have been much talked of and misunderstood ; and as they relate to points in which society, if not possessed of accurate information or if not furnished with the acual words used in the drama, is likely to be sensitive. In a third passage a Magistrate is simply described as writing a letter to a lady in the presence of her husband. But I believe that most persons who know India and its people will read all this as I have done. I still think my reading is the correct one. Should I be mistaken, or even though I be right, should others think differently, my sorrow for this unfortunate publication will be increased by the thought that an offensive meaning (which I should be among the first to reprehend if, applied by others to any of my countrywomen) had been attached to expressions which I believed, and still in my conscience believe to be free from all such gross imputation."

We have nothing to add to this reply, but wonder at the farsightedness of its author. What Mr. Seton-karr said forty years ago, during the glowing heat of excitement, his countryment, now find to be true. For, the *Englishman*, in the articled previously referred to, concludes its remarks on *NilDurpan* in the following words "—but on the whole the European and Official community in India have lost the sensitiveness of forty years ago, and so far from objecting to fierce attacks on their manners and morals apparently enjoy them."

We cannot however pass unnoticed the conduct of the presiding Judge, Sir Mordaunt Wells. In his enthusiasm to defend his countrymen he so far forgot himself that he conbined in him the additional functions of a legislator and an advocte. He imported into his address from the Bench things which were not in evidence. He referred to the letter from Raja Radha Kanta Deb, mentioned before and expressed his surprise that Mr. Long did not tear it into pieces. This passage however, with many others of a grosser nature will not be found in the printed Proceedings of the trial, which as the *Hindoo Patriot* pointed out, 'Sir Mordaunt himself corrected on the proofs'. His address to the Jury far surpassed in party-spirit the address of an Advocate. This led the *Hindoo Patriot* to remark that the credit for the blundering verdict did not belong to the Jury, in as much as the conduct of the Judge and the extraordinary summing up, virtually dictated a verdict to men who were never guilty of opinions of their own. His attempt to sweep away the good old distinction between Judges and Legislatures, led to disastrous results to the various parties concerned and the *Hindoo Patriot* was obliged to observe as follows :—

"It has been thus with all arbitrary Judges. It was thus with Jeffries on the English Bench. It was thus with Impey on the

Indian. The law refused to spuare with their desires and they uncremoniously set it aside and made laws of their own. So also when the Judges of our Supreme Court, whose patriotism and chivalry combined, led them to sympathise with the broken fortunes of their blue countrymen, and to volunteer to lead and by whatever means lay in their power prop up their cause, decided upon making an example of Mr. Long as a warning to all who spoke ill of Indigo or of themselves, and found that the law offered them little assistance, with the shamelessness and recklessness of pettifogging lawyers they brought out from their portfolio a new law ready cut and dried for the occasion and brandishing it in face of an astonished Court, virtually commanded the Jury to abide by it."

The *Nil Durpan* trial however was not an isolated instance which showed the conduct of Sir Mordaunt Wells from the Bench, in its worst aspect. Indeed it was a habit with him to play the part of a moralist and politician from the Bench. He always indulged in intemperate and unbecoming generalisations, and ever delighted in vilifying a whole nation from the particular cases of crime he was required to punish. His remarks so much exasperated the Bengalees that they were obliged to shake off their forbearance which may be said to be the badge of their nation. A meeting was held at the *Nat Mandir* of Sir Raja Radha Kanta Bahadoor on 26th August 1861, for the recall of Sir Mordaunt Wells, in which the following resolution was adopted :—

"That this Meeting desires to reccord not without a feeling of regret that its confidence in the Hon'ble Sir M. Wells, Kt, as a Judge of the Highest Court of Judicature in Bengal, has been impaired in consequence of his frequent and indiscriminate attacks on the characters of the natives of this country with an intemperance inconsistent with the calm dignity of the Bench, as well as from his repeated and indiscreet exhibition of strong political bias and race prejudices which are not compatible with the impartial adminisation of Justice".

The meeting was attended by over five thousand people. Raja Radha Kanta Bahadoor explained the object of the meeting thus :—

"Our task is certainly unpleasant, but it is a duty and we feel bound to discharge it, by shrinking from it we should shew our want of self respect, humiliate ourselves as a nation and ignore the real interest of the country".

Raja Protap Chandra Singh, Raja Kali Krishna, Babus Ram Gopal Ghose, Kalee Prasanna Singha, Roma Nath Tagore Debendra Nath Tagore, Jotindra Mohan Tagore and others also addressed the meeting. A memorial was sent to the Secretary of State for India with a view to represent to Her Majesty's Government the circumstances affirmed in the Resolution. The memorial contained mostly passages of Sir. M. Wells's charges to the Jury anent forgery and perjury. A good portion of it was also devoted to the trial of the Rev. Mr. Long, and the memorialists appeared to have laid great stress on the remarks of the Judge regarding their Address to Mr. Long. Sir Charles Wood replied to the memorial in his despatch to the Governor General dated the 24th December 1861. He therein expressed his hope 'that those who held judicial office might be sensible of how great importance it was that their denunciations of crime might not be interpreted into hasty imputations against a whole people or community'. We have only to add in this connection that the *Hindoo Patriot* justly remarked that the expression of hope, on the part of the Indian Minister was tantamount to command, and trusted that it would have the effect of keeping Sir Mordaunt wells straight in his path of duty.

During the imprisonment of Mr. Long, the leaders of the native community, asked him if he would consent to a petition being sent to Government by them for a remission of his imprisonment, but he dissuaded them from taking such a step as it would greatly embarrass the Government.

However they presented him an Address in prison which was signed by 30,000 persons. It was also contemplated under the leader-ship of Raja Protap Chandra Singh Bahadoor to have a demonstration to welcome Mr. Long on the day of his liberation. This however was subsequently abandoned owing to political considerations. Mr. Long also forbade any such demonstration. Still when he came out of the Jail on the evening of Saturday the 24th August 1861, there were present from two to three hundred people to salute him at the moment of his liberation.

No sooner did he become freeman again than he published a pamphlet in which he shewed that it was not without cause that he interfered in the controversy. He asked his assailants and prosecutors in the memorable words of the great Athenian General,—"Strike, but Hear". The 'factory journals' spoke ill of the pamphlet and the *Hurkaru* tried to ridicule it in the followings lines :—

"The godfather of the *Nil Durpan* invites the planters and the world generally to apply '*Shamchand*' to his reverend person but to do him the favour to hear him."

But little did the planters know then that the incarceration of the Reverend gentleman produced a *Sham Chand* which prevented their raising their heads any more in Lower Bengal.

The members of the Calcutta Missionary Conference at a meeting held on July 30th 1861, passed a resolution in favour of the Rev. James Long. Even the Bishop of Calcutta, Dr. Cotton, could not remain silent. He wrote an article in the "Christian Intelligencer" upon the *Nil Durpan* affair for the British public. He wrote thus :—

"His (Sir M. Wells's) charge is generally said to have been characterised by extraordinary virulence and that it is a melancholy instance of the opposition which may be sometimes observed in this world between legal and moral justice. Passages, which the Judge

described as being foul and disgusting, are in no way more gross than many an English story or play turning on the ruin of a simple, hunted rustic which people read and talk about without scruple. Because Mr. Dickens has libelled Yorkshire School-masters, Chancers, Barristers, Clerks in Government Offices, and Masters of work houses, and was not prosecuted for libel, therefore the publication of the *Nil Durpan* ought not to have been the subject of an indictment.."

Christian commendations gave the lie to the hope entertained by Mr. Long's enemies that his brethren of the cloth would forsake him. They were equally disappointed in finding that the majority of the Press spoke in favour of the persecuted missionary. The following remarks taken from the *Phœnix* represented the actual situation :—

"While, as regards the strength of parties represented through the editorial fraternity that have declared for or against the treatment of Mr. Long by his prosecutors, the following is sufficient to show on which side is the majority of the Presidency Press.

Friend of India, *Phœnix*, *Indian Empire*, *Hindoo Patriot*, *Indian Reformer*, Entire Native Press, *Englishman* *Harkara.*

Thus if newspaper literature be any reliable exponent of public opinion it has already declared itself against Mr. Long's prosecutors by a tremendous majority on the very spot that has witnessed his courageous stand against the bitter hostility of an infuriated multitude."

The *Hindoo Patriot* justly said that when the verdict of India was found conclusive, the opponents looked forward with deluded hopes to England. 'They laid deep their machinations by circulating interpolated accounts of the proceedings to poison the ears of the British public.' But in spite of all their efforts, the waves of sympathy produced in India reached the English shores, and there was the ultimate triumph of the cause of righteousness and truth.

We begin with the fellow-feeling displayed by the Church Missionary Society of England. The Committee of the Society

recorded their resolution on the 24th September 1861, from which we cull the following :—

"The fact that one of their Missionaries has been criminally prosecuted for libel is one respecting which some public notice on the part of the Committee, is due both to Mr. Long and the Missionary body in general, and to their constituents in this country. It is a matter of devout thankfulness that the Committee can approach the subject, not indeed without pain, but without shame. Their missionary has in no way dishonoured his sacred profession, and the all but uniform verdict of public opinion in his favour renders the discharge of their duty in the present case an easy one.

* * * * * *

The Committee, therefore, at the same time that they add to these assurances an expression of their own heartfelt and prayerful sympathy with Mr. Long in this hour of trial, would further declare that they repose the same cofidence as heretofore in his missionary character and principles. They trust that his effort on behalf of the masses in Bengal conducted with the increase of wisdom which experience cannot fail to afford, will be unabated ; and they pray that blessings personal and blessings missionary may be multiplied upon him from on High."

The *London Review* condemned the conduct of the presiding Judge thus—

"Unless a very different colour be given to the case it is plain that justice will not be satisfied by a reversal of the decision, without the dismissal of the Judge whose charge to the Jury and whose sentence on the defendant shows a spirit of partizanship which is never witnessed on the Bench in England and cannot be tolerated in her dependencies".

The *Daily News* (London) made the observations quoted below :—

"It was in truth as if the French Clergy had prosecuted Moliere, or the Yorkshire Schoolmasters, the author of Nicholas Nickleby, or the Southern Planters the author of Uncle Tom's Cabin. And this extreme view of the character of the work was adopted

by the presiding Judge Sir M. Wells. This prosecution is a piece of childish revenge. The Indigo planters have failed in their attempts to mislead the Home public or shake the firmness of the Home Government, so they seek and find in the passions of non-official community of Calcutta the means of striking one of a body of men who have been mainly instrumental in enlightening the British nation respecting their relation with the ryot. It is much to be regretted that they are successful.

If all Calcutta were empannelled as a Jury, the verdict would not persuade the English public that a gentleman bent on slandering and vilifying a wealthy and powerful class of his countrymen would send a foul and filthy libel to the Rev. Baptist Noel and the Earl of Shaftesbury, or palm a caricature of the Indian rural life as veridical on Sir Charles Trevelyan, Lord Stanley and the Earl of Ellenbrough. The mere enumeration of the persons selected as recipients of the translated drama, shews that copies were sent in good faith to acquaint those who in the country pay most attention to Indian subjects, with a particular tendency and working of the Native mind. We believe that they will discover before Parliament meets that in instituting the trial they have made a serious mistake."

Another paper called the "*Press*" had the following remarks :—

"We rejoice that justice is administered in West Minster Hall on different principles than those of Sir Mordaunt Wells. It is with much regret that we criticize the sentence of a Judge. In England the dignity and integrity of the Bench have been so well maintained for centuries that we are apt to look upon Colonial Judges with the respect which we entertain for their brethren at home. But the conduct of Sir Mordaunt Wells reminds us that he is one of the successors of Sir Elijah Impey whose name has come down to posterity with infamous celebrity owning to the eloquence of Burke."

An Address was also sent to the Rev. James Long by the "Aborigenes Protectin Society" which contains the following passages :—

"The sympathies of Christian England are with you. The natives of India vied with each other in their expressions of regard. We find there (Report of the Indigo Commission) facts starting enough to awaken our indignation, without there being the least temptation for us to draw upon the imagination of a play-wright."

The preceding quotations give a glimpse of the public sympathy displayed towards Mr. Long. But it must be noticed, at the same time, that opinions were not wanting to uphold the cause of the planters. It seems, however, from the accompanying remarks of the *Friend of India*, that the balance inclined in favour of the innocent missionary.

"The extreme section of Calcutta agitators, who have unfortunately been allowed to represent the wishes and the policy of the non-official class, shew by the silence with which they received the rebukes of the English Press, how keenly they now feel the blunder they committed in invoking the aid of a barbarous law of libel, and a thoughtless Judge to punish the translator of the Nil Durpan."

The *Hindoo Patriot* also made a review of the opinions of the English Press on the trial and observed as follows :—

"But not one journal defended the Planters or justified the Judge. Even the *Times* once remained ominously silent. On the other hand a universal shout of indignation was raised against the Judge from one extreme of the United Kingdom to the other for his partizan charge and discreditable sentence. Many went to the length of declaring that the demands of justice would not be satisfied until the Judge was dismissed who was complimented as the Indian type of English Jeffreys. Their sympathy of Mr. Long was however as loud and deep as their condemnation of the Indigo planters and their model Judge."

The trial was noticed not only by the leading journals but was also the subject of discussion in the House of Commons. We learn from the *Harkara* of 1861 'that to *Nil Durpan* belonged the merit of raising in England a more intense curiosity about India than anything that had happened

sine the impeachment of Warren Hastings'. The *Hindoo Patriot* pointed out that in reply to a question from Sir John Shelley in the House, Sir Charles Wood treated the attempt to make the *Nil Durpan* a Government libel on the Indigo Planters, with the scorn which it fully deserved. Later, the Secretary of State for India expressed his opinion on all the features of the case, which the *Hindoo Patriot* observed, was as pointed and as satisfactory as every friend of India could have wished. We cannot pass over the mention of the name of that great statesman who presided over the destinies of the teeming millions of India, without feelings of the deepest gratitude to his memory. If his great Educational Despatch opened the portals of knowledge to the tillers of the mind, his ultimate decrees during the whole of the burning period of the Indigo Disturbance showered blessings of peace on the tillers of the soil.

We have dealt at length with the trial of the Rev. James Long, now we have to say a few words as to the official trial of Mr. Seton-Karr for having distributed the translation under the official seal and frank of the Bengal Government. The antipathy of the planter against the President of the Indigo Commission was more deep-rooted than against Mr. Long, and they would not let slip any opportunity for bringing him into discredit. He was then Legislative Member for Bengal in the Governor General's Council. An official enquiry was instituted and in the first instalment of the report, submitted to the Governor-General, Sir John Peter Grant admitted the unfortunate mistake committed by his Secretary and pointed out how it distressed him beyond measure. Mr. Seton-Karr, who was probably silent in view of the proceedings of the Court, sent in resignation of his appointment, as soon as the trial was over. In his letter of the 27th July 1861, already referred to, he took the earliest opportunity of putting on record the chief points

of his connection with the *Nil Durpan* publication, as an explanation to the public. He also made an official statement to the Lieutenant-Governor which was sent up to the Government of India, by Sir John Peter Grant with his own Minute. He observes.—

"In putting his resignation of his office of Member of the Legislative Council at the disposal of Government, he has acted the part of an honourable and high-minded man consistently with his own established character. I do not think that the public interest would be served by acting upon the power thus placed in my hands; but my judgment does not affect the case so far as Mr. Seton-Karr's disinterested conduct is concerned."

The Governor-General in his Resolution dated the 8th August 1861, strongly disapproved of the whole matter and ended with the following direction :—"It is decidedly the opinion of the Governor-General-in-Council that, when Mr. Seton Karr shall no longer have to discharge the duties of his present position in the Legislative Council, he should not be allowed to return to the office of the Secretary to the Government of Bengal."

The Secretary of State, agreed in this view, but expressed at the same time that "so able and distinguished a public servant as Mr. Seton-Karr had shown himself to be, would on his ceasing to sit in the Legislative Council, be placed in some siutable situation where the public might have the benefit of his high service". Mr. Seton-Karr was afterwards appointed a Judge of the High Court and ended his career as Secretary to the Government of India in the Foreign Department.

Besides, the Rev. James Long, the Hon'ble Mr. Seton-Karr, another gentleman also suffered in connection with the translation. It has been said before, that the drama was actually translated by Michael Madhusudan Dutt. He was

then a Barrister-at-Law and held some office in the Supreme Court. Babu Bankim Chandra writes that he was secretly rebuked and insulted, and was obliged even to give up the office, the emoluments of which furnished his means of livelihood.

It thus seems that the translation of *Nil Durpan* brought suffering on all those connected with it. We are not blessed with the Spinozian vision of looking things "under the aspect of eternity," otherwise we could have discerned the purpose herein hidden. However, we find that the sufferings of the indivinual often bring good to the community. It is said whenever the innocent have been persecuted the cause they cherish has ultimately triumphed. History abounds with such wellknown instances that we need not mention them here. However we cite a case because reference was made to it in course of the trial. The *Calcutta Christian Observer* described it as follows—

"Mr. Peterson in his speech for the prosecution made a most unfortunate allusion. He warned the Missionaries by the example of Mr. Smith of Demerara ! He instanced him as one who had incited slaves to disaffection and had suffered the extreme penalty of law. He was strongly forgetful of facts. The case of Mr. Smith is a warning indeed, but it is a warning against Colonial persecution. That man was falsely charged and cruelly treated by the planters of Demerara, and he died in prison ; but very soon the walls of the House of Commons resounded with the eloquence of Sir James Mackinosh and Henry Brougham, the spirit of England was aroused, and nothing probably contributed so much to the downfall of West Indian slavery as that very case."

In his suffering, Mr. Long atoned for the sin of his countrymen, and his name is imperishably associated with the emancipation of the Indigo-slaves in Bengal.

Mr. Long's Letter

of the 20 June 1861, referred to in p 96.

1. Great publicity having been given to my connection with the publication of a translation of the *Nil Darpan*, I beg leave to submit a brief statement on the subject for consideration. I have to apologise if this statement appears egotistical—but it is written in self-defence. I have been assailed by name and with great virulence, by the newspapers that support the Indigo system, during the last fifteen months, and within the last few weeks I have been threatened with a prosecution for libel by the proprietor of the *Englishman* and by the Planters. I write therefore to explain my true position.

2. During the last ten years of my residence in Calcutta I have been led by circumstances to take a very deep and active interest in that which has excited much attention of late in England—the Vernacular Press as an exponent of the views and feelings of the masses, and as a medium for working on those masses for their improvement. I have also been in connection with the Vernacular Literature Society during the last eight years, as well as with the great cause of Vernacular Education.

3. I have never received, nor would I take from Government or any other party, one *cowrie* as pay for services in this way looking on them as part of my work as a branch of Missionary literary work. Government, however, have encouraged me by publishing some of my reports on the Native Press. In 1855, they published in the Selections of the Bengal Government my 'Return of Authors and Translators in Vernacular Literature &c"; of this 800 copies were printed by the direction of Sir F. Haliday; and of my Classified Catalogue of 1400 Bengali Books and Tracts" (which was also published in 1855) 300 copies were subscribed for by Government, so that the work paid its expenses. Of my Returns relating to the Vernacular Press in 1859, Government also published 500 copies ;

I have reason to know that these have been of use to the friends of Missions and of Education in India, England, and even in Germany, and that they have called serious attention to the subject of the native press.

4 At my suggestion the Hon'ble Mr. Beadon, when Secretary to the Bengal Government, issued orders requiring annual returns of the Vernacular publications in Bengal. I strongly urged on Sir F. Haliday, when Lieutenant-Governor, the appointment of a curator of the native press to supply full information respecting its progress; a proposition that met his full concurrence and was only rejected by the Supreme Government on financial grounds. In my examination of native books I was struck with the open way in which obscene books were sold, and the number that were thus put in circulation in Calcutta. I therefore brought the subject before the Legislative Council and a law was passed on the subject, which has worked well in this city. A Bengali *Education Gazette* has also been established, and I had much to do with the procuring for it the pecuniary support of Government. This has proved a very useful means of diffusing sound information among the native population.

5. With the view of making known the tendency of the native mind, I have inserted from time to time in the *Hurkaru* newspaper, articles called 'the Spirit of the Native Press" and with the same object I brought to the notice of several parties, last year a Bengali Drama called the *Nil Durpan* which though highly coloured, appeared to give the native view of the effects of the Indigo Planting system. The dispute had hitherto related to the opinions of Civilians, Merchants and Missionaries, but some were anxious to know the tone of the native press on the subject. The work was already in circulation among the native population, and several persons expressed a desire that it should be translated, for the information of those to whom it was of importance to understand native feeling. It was as an illustration of native feeling and not for the purpose of controversy, that attention was attracted to this publication; but of course in a work like this

Drama, which, as stated in the Introduction, is avowedly published to depict the Indigo system as viewed by the Natives at large, there are statements and passages which the purer and more refined taste of an European would reject. Everyman, however, who is acquainted with Oriental literature, knows how prominent these defects are in many Oriental works of high reputation. In the English Translation of the *Nil Durpan* the coarser passages were expunged or softened, and I regret that any that have given offence should have been inadvertently allowed to remain. But any one who will take the trouble to examine the original will find that a good deal has been omitted. With reference to the passage in the native author's preface as to two newspapers, insinuating that they were under the influence of the Planters, I never could have imagined that any English reader would attach importance to the imputation. The insignificance of the sum mentioned as the incentive (thousand rupees or £100) seemed to exhibit at once the folly of the charge as applied to newspapers of wide circulation.

That my motive in undertaking to pass the translation through the press was not malevolent, may be inferred from the conclusion of the Introduction written by me.* "It...afraid".

6. I myself believe thoroughly in the truth of Lord W. Bentinck's maxim "India must be managed at present by Native agency under European Superintendence." But in order to maintain that Europian superiority, and on the principle *fas est ab hoste doceri* I believe it would be most useful for Europeans of all classes to see themselves now and then in the mirror of the Native Press. Lord W. Bentinck thought so, when he allowed its criticisms on himself and his administration,—"considering it was an index and safety valve for the public mind." So did the Marquis of Hastings when in 1818, he patronised the *Serampur Durpan* by allowing it to circulate for one fourth the ordinary postage. That paper was under Missionary management and often contained extracts from Native papers freely criticising Europeans and Government. I remember reading in old numbers of that paper translations of most bitter

* P 47 of the *Trial*, lines 18 to 23.

satires from the *Bhaskar* and *Chandrika*, one part of which reprsented an English Judge drinking brandy on the Bench, and speaking a language none could understand,while his *amlahs* were busily engaged receiving bribes. The late Rev. W. Morton a Missionary, frequently made translations from the Native newspapers, giving extracts hostile to Missionaries and others. I was requested three years ago by the Missionary Conference of Calcutta, to compile a tract giving the opinions of the Native Press for and against Christianity, in order that Missionaries might know the real state of the native mind.

That this regard to native opinion is not inconsistent with a zealous support of British interests, may be proved by a reference to the Hon. F. Shores' most valuable "Notes on Indian affairs." No one more boldly advocated the settlement of Europeans in India thirty years ago than he did, and no one more ably pleaded for their services being used by the State as Justices of the Peace," yet few men ever dwelt more faithfully on the effects produced on the Native mind by the misconduct of his countrymen.,

7. It is said that to meddle with such subjects as Indigo is not consistent with the character of a clergyman. I would ask, is not the preservation of peace in India one of his duties ? Here in this country is a small number of Europeans in the midst of a vast body of Natives. Few of the former know anything of the Native language or of Native feeling ; a volcano may be forming beneath their feet, and dark clouds may be gathering on the horizon of India. Is the watchman then who gives warning to be counted an enemy ? If a clergyman knows of a state of Native feeling that may end in bloodshed, is he to give no information of it ? It is admitted that in the Indigo districts there was and is a state of feeling of this sort. How is it to be brought to the notice of officials and men of influence to put them on their guard ? Surely the Native press well indicates what is going on beneath the surface, and is one of the safest guides to genuine Native opinion. I solemnly declare that I know nothig more important for the future security of Europeans in India and the welfare of the country,

than that all classes of Europeans should watch the barometer of the native mind. I feel strongly that peace founded on the contentment of the Native population is essential to the welfare of of India, and that it is folly to shut our eyes to the warnings the Native Press may give.

Well, would it have been for India had the mutterings of the native press been earlier attended to before the Mutiny. They were neglected and men slept quietly over the brink of a volcano. Had translations been made from the native press of the Agra Presidency, indicating the state of feeling towards Government a year before the Mutiny, and had these been communicated to official and other influential persons it is posible that Europeans might not have been taken so unwares with all their arsenals in *sepoy* hands.

8. A Missionary is pledged—in fact it is his work to rear an indigenous Christianity. I have seen with deep sorrow how much of our Mission work in Bengal, is still too much of a hot-bed system maintained at a heavy cost by the funds of foreigners. Christianity has as yet made comparatively little way among the population of Bengal. "In my own observation and experience one of the most prominent causes appears to be the mental, moral and social degradation of the ryot ;" and here I must reiterate what I wrote in the Introduction to the *Nil Durpan.** "Attention...spirit."

" It was the conviction that certain social evils were great obstacles to the diffiusion of the Gospel, which led the Church Missionary Society and its friends to take an active part in promoting abolition of the slave trade in the West Indies and West Africa, and in the protection of native rights in New Zeland, and which induced the Baptist and Wesleyan Missionary Societies to wage a crusade against West India Slavery, though their Missionaries were imprisoned by the Planters in Jamaica and other colonies. The same views have led Christian Churches in America to raise their voices against slavery.

9. While I regret that through inadvertence remarks by the native

* P 47 of the Trial, lines 1 to 18.

anthor at which offence has been taken, were allowed to remain in the preface of the *Nil Durpan*, I am thankful that there is little likelihood of a recurrence of similar inadvertence in connection with individual European responsibility, as I trust that ere long the Government will have one of their own servants employed with a suitable establishment for the purpose of keeping the authorities acquainted with native opinion in its bearings on general questions. But while I regret the publication through inadvertence of any expressions or passages that have given offence, I must be allowed to add, that it does seem strange that my complaints on this subject should proceed from those Calcutta Newspapers that have supported the Indigo system, or from the Planters who circulated "*Brahmins and Pariahas*"—for I think that I may appeal to any man who has resided here since the beginning of 1860, and ask if he remembers in the annals of modern controversy, greater virulence and bitterness than the organs of the Planters have exhibited in their repeated attacks on the Government, the Missionaries, and those officers of Government with whose measures they have been dissatisfied. I might append to this statement numerous most violent and acrimonious extracts from those papers, and leave all candid men to judge if the liberty of the Press has not been abused and if native writers have seen in their European contemporaries any example of moderation. In my own case and in the case of Mr. Bomwetsch, some of our friends wished actions for libel to be instituted, but we have been content hitherto, as the officers of Government have been, to bear the revilings of those journals in silence.

10. It has been alleged that I vouch for the entire truth of every statement in the Drama. I do nothing of the kind. I never meant to do it. All that was intended, all that ought fairly to be deduced, is that in many instances, according to general opinion, and popular report and belief, the effect of the Indigo system on native families has been as ruinous as the Drama represents.

CHAPTER VII.

INDIGO INDUSTRY.

It now remains to designate the dispute between the planter and the ryot, from an economical point of view. Mr. J.M. MacLeod, a member of the Indian Law Commission pointed out so far back as 1835, that the appellation "Indigo Planter" was a misnomer. They ought with more propriety be termed "Indigo manufacturer." In fact they were really manufacturers of the blue dye, and by far the greater part of them were no more planters than the money-lenders who supply capital to ryots for the cultivation of rice, sugarcane, or any other sort of produce. The correct relation between the planter and the ryot, had been described by the Indigo Commissioners, as that between manufacturer and producer and not between capitalist and labourer.

For the better understanding of the commercial aspect of the disturbance, it is necessary to know all the stages through which indigo passes as an article of commerce. The methods of cultivation have already been described and we take this opportunity of informing our readers of the methods of sowing and mannfacture of indigo. The following account relating to the several processes is quoted from Sir Willian Hunter's "Statistical Account of Bengal," with slight addition, from the Report of the Indigo Commission, to make it conform to the time of which we are speaking.

The sowing takes place twice in a year. The autumn or October sowing commences from the third week ef September and lasts till the end of October. As soon as the floods have subsided the seed is scattered broad cast on the alluvial lands along the rivers. These lands require very little ploughing; and the mere dragging of the stump of a plantain tree over the field is suffecient to cover

the seed. But a better class of sowing is preceded by the plough. October sowings are also made on *dengali* or high lands, and the sites of deserted homesteads. The advantage of October sowing is that the plant is hardier, and can stand more rain than that sown in the spring. The yield of the dye however is not so great as from the spring plant nor is the quality quite so good.

The spring sowing takes place from the beginning of February to the middle or end of May. When early showers fall, the lighter soils are generally sown first, as they are more easily soaked and are also more retentive of the moisture during the drought that is sure to follow. The stronger soils are sown when the heavy showers fall, generally at the end of April or beginning of May. The spring indigo flourishes well if it get alternate heat and showers. Spring indigo however is more precarious than the autumn crop though its yield is larger than the latter crop.

Indigo is not so exhausting a crop as is sometimes supposed; and it is stated that a field will yield a good harvest of rice, even if sown with indigo for five years in succession. It is of great service to the agriculturist in the due rotation of crops.

The lands most suitable for indigo cultivation are the low alluvial soils along the banks of the rivers, which are annuallly enriched by fertilizing inundations. Next colne the half-clay half-sandy soils, and lastly, the strong black soils. The last class of land often gives the best return of all, but it requires favourable weather, otherwise the crop is a very precarious one. As soon as the plant is ready it is made up into bundles each measuring 6 ft. in circumference and made over to the factory. The indigo in these bundles is packed in double lengths placed stem outwards and leaf inwards, exactly as the two sheaves of corn are made into one, with the ears turned inwards. The money value per acre of this plant to the cultivator varies from Rs. 6-12 to Rs. 3-6. When there is a crop of seed grown from the stumps of the indigo, it is considered the right of the factory to buy the produce at a certain rate per *maund*, for future sowing.

Two methods are pursued to extract the indigo from the plant. The first effects it by fermentation of the fresh leaves and stems,

the second by maceration of the dried leaves,—the latter process being most advantageous.

(1) From the fresh leaves--Each indigo factory contains several large stone built cisterns arranged in pairs. Of these pairs of cisterns or vats, the bottom of one is nearly upon a level with the top of the second, inorder to allow the contents being run out of the one into the other. The uppermost of the pair is called the fermenting vat, or the steeper; and the lowermost, the beating vat. The cuttings of the plant as they come from the field are laid out in rows in the steeping vat, till it is filled within five or six inches of its brim. Water is pumped upon the plants till it stands within an inch or two of the top of the vat, the plants being kept down by means of logs of wood and bamboos being placed over them. An active fermentation speedily commences, which is completed in fourteen or fifteen hours. Nine or ten hours after the immersion of the plant, frothy bubbles appear, which rise like little pyramids. They are at first of a white colour, but soon become grey-blue and then a deep purple red. The fermentation is by this time violent, the fluid is in constant commotion, innumerable bubbles rise to the surface, a dense copper-coloured scum covers the whole. As long as the liquor is agitated, the fermentation must not be disturbed; but when it becomes more tranquil, the liquor is to be drawn off into the lower cistern. It is of the utmost consequence not to push the fermentation too far, because the quality of the whole indigo is deteriorated; but rather to cut it short, in which case there is, indeed, a loss of weight, but the article is better. The liquor possesses now a glistening yellow colour, which, when the indigo precipitates, changes to green. The average temperature of the liquor is commonly 85° Fahr; its specific gravity at the surface is 1·0015; and at the bottom, 1·003.

As soon as the liquor has been run into the lower cistern, ten men are set to work to beat it with paddles. Meanwhile, other labourers remove the exhausted plant from the upper vat, set it to dry for fuel, clean out the vessel and place fresh plants in it. The fermented plant appears still green but it has lost three fourths of its bulk in the process, or from twelve to fourteen per cent. of its

weight, chiefly water and extractive matter. The liquor in the lower vat must be strongly beaten for an hour and a half when the indigo begins to precipitate. This is the moment for judging whether there has been any error committed in the fermentation, which must be corrected by beating. If the fermentation has been defective, much froth rises in the beating, and then a reddish tinge appears. If large round granulations are formed, the beating is continued, in order to see if they will grow smaller. If they become as small as fine sand, and if the water clears up, the indigo is allowed quietly to subside. Should the vat have been over fermented, a thick fat-looking crust covers the liquor. In such a case the beating must be moderated. Whenever the granulations become round and begin to subside, and the liquor clears up, the beating must be discontinued. The colour of the liquor when drawn out of the steeper into the beater, is bright green; but as soon as the agglomerations of the Indigo commence, it assumes the colour of Madeira wine, and soon afterwards, in the course of beating, a small round grain is formed, which precipitates when the water gradually becomes transparent and all the turpidity and froth disappear.

In the front of the beater a beam is fixed upright, in which three or more holes are pierced, a few inches in diameter. These are closed with plugs during the beating; but two or three hours afterwards, as the indigo subsides, the upper plug is withdrawn in order to run off the superabundant liquor, and then the lower plugs are drawn out in succession. The state of this liquor being examined, affords an indication of the success of both the processes of fermentation and beating. When the whole liquor is run off, a labourer enters the vat, sweeps all the precipitate into one corner, and empties the thinner portion into a spout which leads into a cistern alongside a boiler. When all this is collected it is strained, passed into the boiler and heated. The froth soon subsides, and leaves an oily-looking film upon the liquor. The indigo is by this process not only freed from the yellow extractive matter, but is enriched in the intensity of its colour, and increased in weight. After boiling two or three hours, the mixture is run from the boiler into a general receiver or cistern called a dripping vat, and having a false bottom

This cistern stands in a water-tight basin of masonry, the bottom of which slopes to one end, in order to facilitate the drainage. A thick woollen web is stretched along the bottom of the inner vessel to act as a filter. As long as the liquor passes through turbid, it is pumped back into the receiver. Whenever it runs clear, the receiver is covered with another piece of cloth, and it is allowed to drain at its leisure. Next morning the drained magma is put into a strong bag and squeezed in a press. The indigo is then carefully taken out of the bag and cut into sqares of about three cubic inches, which are dried upon shelves of wicker work. During the drying, a whitish eflorescence forms upon the pieces, which must be carefully removed whith a brush

(2) Indigo from dried leaves—The ripe plant being cropped, is dried in the sun during two days, and then thrashed, in order to separate the stems from the leaves. The newly-dried leaves must be free from spots, and friable between the fingers. When kept dry, the leaves undergo a great change in the course of a few weeks, their beautiful green tint turning into a pale blue-grey. Previous to this change, the leaves afford no indigo. The process of extracting the indigo from the dried leaves is as follows :—The leaves are infused in the steeping vat with six times their bulk of water, and allowed to macerate for two hours, the mixture being continually stirred till all the leaves sink. The fine green liquor is then drawn off into the beater vat, for if it remained longer in the steeper, some of the indigo would settle among the leaves and be lost. The process of manufacturing with dry leaves possesses this advantage, that a provision of the plant may be made at the most suitable time independently of the vicissitudes of the weather, and the indigo may be more uniformly made. Moreover, the fermentation process in the case of the fresh leaves is here superseded by a much shorter period of simple maceration. The process of obtaining the indigo from the *nerium* is almost exactly the same from the dried leaves as in the case of the fresh plant, but hot water is generally applied to the dried leaves.

Indigo thus manufactured goes to the Calcutta marts and thence shipped as an article of commerce. The indigo manufactured on this side of India is of prime quality and that of Lower Bengal,

especially which is produced in the districts of Nuddea and Jessore, is probably the very finest. The annual outturn of this dye on this side of India for the season, about the time of the disturbance averages 1,05,000 maund and the value of this would be nearly two crores of Rupees. According to later statistics the export from Bengal once rose to the highest figures of 99, 402 cwts. The most notable feature in the indigo trade is the diminishing proportion sent direct to England, and the wide distribution to other countries which comprise, the United Kingdom, France, Egypt, the United States, Austria, Persia and Italy.

It is beyond dispute that indigo is one of the most important of Indian exports. Sir William Hunter says it is one of the oldest, and, until the introduction of tea planting, it ranked as the most important of the Indian staples grown by European capital. It is admitted by all that British capitalists have done a service to the country in having greatly increased its material resources. Indeed, it is great relief to us, after the painful duty of placing befor the readers the dark side of the picture, to acknowledge the advantages set forth by the planters as due to their presence. We are glad to give prominence to the fact that wherever indigo planters had established themselves, whole tracts of jungles had been cleared away, and that the clearance of jungle was in nearly all instances followed by an addition to the number of the villagers, and in this way social comfort was promoted. Nor must we omit to mention here that we are pleased to find in the pamphlet the "Brahmins and Pariahs" Raja Ram Mohan Roy and Babu Dwarka Nath Tagore paying tributes of graceful compliments and gratitude to the planters for the good performed by them to the natives of this country. The Indigo Commissioners were also not silent in acknowledging the services of the European capitalists. We read in their Report :—

"The presence of Europeans, their attention to business, the help they give to Officials, their energy in clearing jugles, and in aiding

in the formation of roads, the check they give to abuses, their yearly circulation of large sums of money, are all things to be admired and valued."

These advantages however carry with them the potentiality of evil, and the Commissioners were obliged to qualify their remarks with the following reservations:—

"But these benefits will be more freely felt, and more openly acknowledged, whenever the whole system shall have undergone a thorough reformation, and when indigo can be cultivated under such circumstance as shall remove even the bare apprehension of agrarian rising and popular discontent."

Though we cannot speak too highly of the importance of European capital and European supervision in the history of the Indigo Industry in Bengal, we should not forget at the same time that the cultivators of Bengal played no insignificant part in the production of the dye. The Indigo Commissioners justly observed:—

"We must discountenance an erroneous notion that the labour of the ryot costs him nothing, on the ground that he in the performance of his contract, with his own muscles drives his own plough, behind his own bullocks, over lands of which he is the undoubted occupant. The bullocks, the implements, the time and the labour of the ryot represent to him his *capital*; and it is quite certain that in the populous districts of Lower Bengal, such labour has a market value. We need hardly use further arguments to set before His Honour one of the first principles of political economy. Our object is simply to shew that until the plant reaches the vats in the factory no share in the labour of producing it has been borne by the planter. He has given his advances, and his seed. Every thing else, the land, the labour and the risk is the ryot's."

The remarks quoted above will explain the disagreement between the planters and the Government of Bengal, in respect of the politico-economic character of the Indigo dispute. The planters in their Memorial to Lord Canning tried to establish that the difference between them and

the ryots was a dispute between capital and labour and that their vast stake was going to be sacrified at the altar of the so-called philanthropy of the Lieutenant Governor of Bengal. Sir John Peter Grant, however, was not the person to pass unnoticed any charge against him however preposterous. He discussed at length the points raised and as his remarks have furnished us with a clear description of the situation we give them below :—

"The Commercial disagreement is designated a dispute between *capital* and *labour* and I am accused of especial indiscretion, on the ground that such is the character of the dispute. I am aware of no such dispute. Some few instances have been reported to me in which manufacturers of indigo have found difficulty in obtaining a sufficient number of *coolies*, and sufficient boats and carts ; but in all these cases the difficulty was overcome, eventually by the good sense of the parties, and sometimes with the help of the good offices of the Magistrates, in the natural and proper way of an adjustment of rates. The disagreement actually existing is between the manufacturers of the dye, and the producers of the plant, which is the raw material of the dye. Both these classes are capitalists, and so far from it being that the capital of the producers is so small comparatively, that they may be truly described, for practical purposes, as labourers, this capital in the aggregate, infinitely exceeds the capital of all the manufacturers of Indigo dye. The capital of the ryot is in his land, his crops and his cattle, and in very many cases, in his means of hiring labourers over and above the value of his own bodily labour. The whole cultivation of Bengal is in his hands ; and the ruin of this mighty interest would be the ruin of the country. The captial of the manufacturer of indigo dye is partly in his manufacturing premises and utensils, and in his means of hiring labourers, but mainly in the debts due to him by the former class of capitalists *viz.* the ryots.

Both the interests are capitalists of great national importance, and both should be treated not only writh justice but with consideration. A Government which should approach the question with any less impartial view of it than this would err as much in point of sound economical policy as in point of fair dealing."

It is said out of evil cometh good, and the indigo disturbance froms no exception. Nowhere do we find such faithful adherence to the spirit of the great Proclamation of 1858, which immediately preceded the event. The doings of Sir John Peter Grant in Bengal, and the ultimate findings of Sir Charles Wood in England came like trailing clouds of glory from the throne of Her Gracious Majesty. Even the shades of the Counter of Commerce could not darken the fresh splendour of the Magna Charta granted by the Sovereign-Mother to her various Indian subjects. The ryots of Bengal, after all, enjoyed 'immunity from oppression and blessings of peace.' However, Time casts its shadow over all, and there is no wonder if the beaming light of the solemn pledge has fainted and faded far. But the memorable assumption of the direct rule over the Indian people by Her Gracious Majesty, has been followed in the natural march of events by the Coronation of her son. It has been described by his Representative here as 'a landmark in the history of the people and a chapter in the ritual of the State.' We hope the Royal Message proclaimed on such an occasion will scatter away all darkness and ring in a still brighter era of just, equitable, and benevolent Government. We conclude with the prayer of His Excellency the Viceroy, which will no doubt be, remembered as historic utterances—

"—that the well-being of his subjects may grow from day to day, and the administration of his officers may be stamped with wisdom and virtue."

THE END.

REPORT

OF

THE NIL DARPAN CASE.

(Taken from the "Bengal Harkaru, 1861.)

CALCUTTA SUPREME COURT.

CRIMINAL SESSIONS;

BEFORE

SIR MORDAUNT WELLS KT.

The Queen on the prosecution of,

WALTER BRETT *versus* JAMES LONG.

First day—July 19th, 1861.

The indictment charged the prisoner under several counts, with publishing a pamphlet called the *Nil Darpan* containing libellous matter against the Editor of the *Englishman.*

Mr. Peterson and *Mr. Cowie* for the prosecution, *Mr. Eglinton* and *Mr. Newmarch* for the defence.

A special jury was summoned. Some delay was occasioned in empanelling them owing to only seventeen gentlemen of the 24 sommoned being present. Many of them were challenged on the part of the prosecution, but as the number was less, those who were called were obliged to be sworn.

The following are the names of the jury—A. Eglinton, Esq., Foreman.

S. Apcar, Esq., L. A. D'Souza, Esq., C. Weskins, Esq., J. W. Roberts, Esq., Manickjee Rustomjee, Esq., W B. Bailey, Esq , E. Creighton, Esq., E. Palmer, Esq., R. Blenchynden, Esq., J. Nott, Esq., and W. S. Atkinson, Esq.

MR. PETERSON in opening the case for the prosecution said, that the jury were called upon to determine a case which he need hardly tell them was one of very considerable importance. It would be idle for him to attempt to disguise the fact for whom he was appearing. He appeared for Mr. Walter Brett, one of the parties calumniated, and the gentlemen who paid for this prosecution were the members of the Land-holders' Association. He, though it necessary to state this before his learned friends enquired into and misconstrued the motives of this prosecution and told them that the party who was proceeding against Mr. Long was a mere puppet and the strings were pulled by some

persons behind the scene. He was sorry that he should be bound to appear against a gentleman in holy orders. But whatsoever be his denomination, his position or his private character, he felt aggrieved that a person filling a holy commission and a learned minister of of the church, should have propagated scandal of so vile a nature, and then calumniated and slandered no one individual alone, but a whole body, who have been held up to public odium and denounced as men guilty of the vilest acts which the catalogue of crimes could disclose. It would be idle for him to tell them of what had taken place. They were aware of the unhappy differences that had taken place between non-official planters and certain parties, the ryots of Lower Bengal, and he would not hesitate to say that the pamphlet, which was the subject of the present prosecution, was written to throw public obloquy and odium upon that body. No person could object to any man writing or commenting upon the public acts of anybody or community, provided he kept within the legitimate bounds. If particular acts of individuals were held up, be they officials or non-officials, he should be the last person to object to it; but the present publication was quite a different thing. It was like a person stabbing in the dark because he could not get at them in any other way. When they came to consider the case, they would find it was not planters alone who were to complain, but it affected every Englishman in India, and he felt that in the present case he was not simply doing his duty to his clients, but he was himself interested in the matter, and he thought it concerned him as much as the body who had been maligned. Strong abuses required strong remedies, and they could not conceal what had occurred. Last Sessions he was prepared to go on with the case. The printer Mr. Manuel was indicted. They knew fully well that if they got the calf they would soon get the cow. Manuel pleaded guilty and gave up the name of the publisher who was the Reverend gentleman, and he now stood in the room of the printer. He would now go into the question of the libel. Any person had a right to publish work whether it be against the private or public acts of any individual. If he does so he must do it at his own peril, and the party calumniated has his remedy. Perhaps it might be asked why not treat this as a civil action? He would answer that question by saying that no civil remedy lay by a body of men who have been calumniated and their action must therefore be made the subject of an indictment and commitment. He regretted that his clients had not the opportunity by a civil action of doing the gentleman the justice of proving the truth of the acts of atrocities mentioned in the libel. It was a libel which came under the Section 34th of Fox's Act, but which was not extended to this country. That was a declaratory act and gave the jury the power of determining whether the publication was a libel or no libel. But before the passing of that Act, the question was entirely left with the Judge. So long as the defendant was entitled to Fox's Act, it would be necessary for the prosecution to shew that in publishing this pamphlet the defendant had been actuated by malice. He (Mr. Peterson) did not think there would be the slightest difficulty in proving this.

Not only from the nature of the publication itself, but the manner in which it had been circulated, the jury he was certain would come to the conclusion that the party who would publish such a foul calumny pointed against so respectable a body could not have acted otherwise. He would show them that there was scarcely a crime recorded in the calender but that the planters had been guilty of, according to this publication which was as gross and villainous a production that had ever been issued from a press. Perhaps it might be suggested that although the gentleman published it, still he was neither the translator nor the author. But he would ask for what purposes was it translated and published? It was published for one of the most mischievous purposes that could well be conceived. But there were certain things commented upon that pamphlet which would convince them that it was not translated by a native as it was stated on the title page. As for saying that the pamphlet has been published and circulated for the purpose of showing the feelings of the natives, was perfectly absurd and ridiculous. Now there was an expression used in the original namely the word '*soorkee*' which every native would tell them meant a short spear, but the word was translated into "brick dust makers"; therefore it could not be the translation of a native who had been assisted by the Reverend gentleman for the simple and very harmless purpose of propagating the truth. But he would show them and there was a good deal in the internal evidence to show it, that the author might have been some Hindu, but the translation could never have been made by a Hindu but by an Englishman. There were certain parts of the libel for the publishing of which the shadow of an excuse could not be shown, and it was quite evident that the intention was some other than that of showing the feeling of the natives towards the Englishman in this country. If the jury were of opinion that the defendant had disseminated this foul libel for the good of the country and society, to show up the wrongs of the Englishman for persecuting the natives, and that virtually he had not been actuated by any malice, then the whole thing must fall to the ground. It would be for them to say on the whole whether the present case could be treated as one in which a person influenced by a conscientious discharge of his duty and acting with the best of motives, published to the world the misdoings of a body without in the slightest degree intending to cast obloquy and odium upon them. He was certain that when they became acquainted with the real facts of this libel and its mischievous tendency they would at once cast away the notion that the party intended no harm. That it was not a cruel and malicious attack, concocted with the deliberate intention of bringing into contempt a body whose faults had been nothing more than that they stood out for their rights and liberties as Englishmen. He did not think there could be the slightest excuse shown for the publication of so filthy a production? However, if any excuse could be shown the jury would have nothing to do with that as it would be a question for the consideration of the Court in mitigation of punishment. As to justification that was quite out of the question in the present case. It was quite unnecessary for

him to refer them to the numerous law cases to show them what a libel was. His Lordship would point out to them the law bearing on the case. It was not simply a libel in the legal acceptation of the term. A question might possibly be raised how far the indictment could be drawn on the part of a body or class of men like the Indigo Planters. But he would show them that this could be done. In the case of *Rex. versus Williams*, and *King versus Osborne* it was held that such an indictment could be filed. He would also refer them to the celebrated case of the Portuguese Jews. In this case the objection was taken and the question was fully discussed whether an action could be brought by a body of men whose character had been affected by the publication of a libel. It was decided by the highest legal authority that it was immaterial whether the libel was against a single individual or a body, and the parties calumniated could seek redress in the form in which the present action was framed. He would proceed to detail the circumstances of the case. Now he thought he would be able to prove beyond all doubt the fact that the pamphlet was published by the defendant. He had not been able to find out the manuscript itself, but he would be able to show that the manuscript from which the printer set up the poisonous matter was in the handwriting of the defendant. He would also show that between (450 and 500) copies of the work were published by Mr. Long, and where they were published. He did not suppose the jury would believe him when he told them that his great publication was received and circulated by one of the highest officers of the Government of Bengal which had been the receptacle of this vile and infamous production which was sent into the world to show the feelings of the natives towards their English brethren, to teach them how they should walk in the paths of virtue and to amend their conduct.' It was not to cast obloquy or odium upon them but bring about a reformation. To effect this the Réverend Gentleman used the means of propagating slander. He would prove every single word he uttered, and his learned friends for the defence would have every opportunity of rebutting and disproving them. They might make use of anything they like provided they put in evidence to prove it. All he could say was that the man must necessarily be a fanatic: or a man of a very strong constitution who would put forth such a production. It had been said that this precious work had been published for the cause of humanity and that sort of thing. It was no doubt to show that the natives had been victimised and with a view most likely to prejudice the other class. If such was their opinion then all the expression of truth must fall to the ground, and whether what he propagated was the truth or not had nothing whatever to do with the question of its being a libel. It would take a considerable time for him to go through the various counts It will be his duty to prove them and bring home the convictions, but it will be for the jury to say whether the defendant had been actuated by a sense of justice in publishing them. Now it was quite evident that this pamphlet related to native labor and English capital, and if the statement and the charges contained in it were true, he might

say that every Judge and Magistrate in lower Bengal and even the Government of Bengal were put upon their trial. The parties libelled were not the planters alone though the shots were principally levelled at them, but serious charges were made in the pamphlet which concerned every Magistrate and Judge in the district, and though they had been maligned and even the late head of the Government, still no person had the courage of coming forward and bringing about this prosecution. In the first place look at the introduction. Probably it would be said that this was a drama and dealt broadly in caricatures. But as long as drama deal with arson, forgery and robbery and every other crime, the caricature drops to the ground and it becomes the vehicle of scandal and slander. The press and the drama might lawfully put forth their productions provided they were done in good humour and related to the manners and customs of a particular society. Where would the satirist be if he were to indulge in such calumnies. He would now take them to the author's preface and the introduction because in them he sets forth and gives his reason for the publication and treated it as a fact, and in doing so it was not necessary for him (Mr. Peterson) to prove that it was written by the defendant or not. He would call upon the gentleman of the jury—he did not see that any of them were Indigo Planters or directly interested in Indigo—to give a clean and dispassionate verdict, and he would ask them not to strain a single point one way or the other, but to give their verdict, with strict justice and impartiality. He would now read the inducement set forth in the first part of the indictment.

[The speaker then read the count and read the extracts from the *Nil Darpan* upon which the count was framed.]

The preface stated—"The Editors of two daily news-papers are filling their columns with your praises, and whatever other people may think, you never enjoy pleasure from it, since you know fully the reason of their so doing. What a surprising power of attraction silver has. The detestable Judas gave the great preacher of the Christian religion, Jesus, into the hands of odious Pilate for the sake of thirty rupees; what wonder, then, if the proprietors of the two news-papers, becoming enslaved by the hope of gaining one thousand rupees, throw the poor helpless people of this land into the terrible grasp of your mouths." This was the matter of inducement, and it will be for the jury to say whether the two dailies alluded to were not the *Englishman* and *Harkaru* and he would call several witnesses who would satisfy them on that point. It clearly pointed that the editors had taken a thousand rupees to adopt the views and expressions of the Planters. It was said why should the planters of Lower Bengal take umbrage at this production. Could it be said for a moment that the planters of any other part of India were alluded to. It was very important that they should satisfy themselves that the parties meant were the planters of Lower Bengal. There could be no doubt that it was intended to show that the cause of the disturbance had arisen by the treatment, the ryots of Lower Bengal had received from the planters, and in consequence of such disturbance the authorities had to investigate into the oppression of the

Indigo Planters. Now they might safely infer that such a case of lawlessness had been supposed to exist long before the *Nil Darpan* was published and if he could only show that one hundredth part of the charges preferred against the planters were mentioned in that pamphlet, it would be sufficient for his purpose and they would have to judge whether the statement put forth in it was what could be called a fair and legitimate line of comment, and when he would read the indictment they would have very little doubt in coming to the conclusion that the intention of the writer was nothing more than to bring the planters to disrepute and to cast obloquy upon them. It was clear that the motive of the writer was to extol the vices of the white race and exaggerate the miseries of the ryot. It was impossible to give evidence as to who the writer was. This much was evident that it was the concoction of some person under the assumed name of a native who set out the mirror and its translation. No native, he would take upon himself to say, even if he were accustomed to English habits and English notions would have translated it. C. H. Manuel, as he had told them before, was indicted and was compelled to give up the name of the publisher. He would now proceed to read the introduction.

MR. EGLINTON.—I submit my learned friend has no right to read the introduction as it is not set forth in the indictment.

THE JUDGE.—I will hold that both the defendant and the prosecutor will be at liberty to infer any passage in this book.

MR PETERSON RESUMED.—The introduction ran thus:—"The original Bengali of this Drama the *Nil Darpan* or Indigo Planting Mirror—having excited considerable interest, a wish was expressed by various Europeans to see a translation of it. This has been made by a native; both the original and translation are *bonafide* native productions and depict the Indigo Planting system as viewed by natives at large. The drama is a favorite mode with the Hindus for describing certain state of society, manners and customs. Since the days of Sir. W. Jones, by scholars at Paris, St. Petersburgh and London, the Sanskrit drama has, in this point of view, been highly appreciated. The Bengali drama imitates in this respect its Sanskrit parent. The evils of—Kulin Brahminism, widow-marriage prohibition, quackery, fanaticism have been depicted by it with great effect, nor has the system of Indigo Planting escaped notice; hence the origin of this work the *Nil Darpan* which though exhibiting no marvellous or very tragic scenes, yet in simple homely language gives the "annals of the poor" pleads the cause of those who are the feeble; it describes a respectable ryot, a, peasant proprietor happy with his family in the enjoyment of his land till the Indigo system compelled him to take advances, to neglect his own land, to cultivate crops which beggared him, reducing him to the conditions of a serf and a vagabond; the effect of this on his home, children, and relatives, are pointed out in language plain but true; it shows how arbitrary power debased the lord as well as the peasant; reference is also made to the partiality of various Magistrates in favour of planters and to the Act of last year penally enforcing Indigo con-

tracts. Attention has of late years been directed by Christian Philanthropists to the condition of ryots of Bengal, their tortures and the oppression which they suffer; and the conclusion arrived at is there is little prospect or possibility of ameliorating the mental, moral or spiritual conditions of the ryots without giving him security of landed tenure. If the Bengal ryot is to be treated as a serf, or a mere squatter or day labourer, the missionary, the school master, even the developer of the resources of India, will find their work like that of Sisyphus—vain and useless. Statistics have proved that in France, Switzerland, Holland, Belgium, Sweden, Denmark, Saxony, the education of the peasant, along with the security of tenure, he enjoys, on his small farms, has encouraged industrious, temperate, virtuous and cleanly habits, fostered a respect for property, increased social comforts, cherished a spirit of healthy and active independence improved the cultivation of the land, lessened pauperism and has rendered the people, averse to revolution, and friends of order. Even Russia is carrying out a grand scheme of serf emancipation in this spirit. It is the earnest wish of the writer of these lines that harmony may be speedily eatablished between the planter and ryot, that mutual interests may bind the two classes together, and that the European may be in the mofussil the protecting Ægis of the peasant who may be able "to set each man under his mango and tamarind tree, none daring to make him afraid."

Now one great point which was that of identity, was produced by the libel itself.

The scene commenced with J. J. Wood, but there were one or two fictitious characters to give it the semblame of fiction. As he understood the *Nil Darpan* was a blue mirror. Everything relating to Indigo was represented in its worst features. It was a representation of a general system, the effect of which was to show up to the world the virtues of one class and the vices of the other. The language was plain and unmistakable. The violence of the Indigo Planters, their wives and daughters were all treated in this mirror. Reference was also made to the administration of justice; the Magistrates and Judges were attacked, even the late Lieutenant Governor Sir Frederick Halliday. With the exception of one or two Magistrates and the present Lieutenant-Governor of Bengal who was a gold deal buttered, the others were all pronounced to be bad and charged with injustice and partiality. Although the gentleman tried to conceal himself under the garb of sanctity, still in the end he betrayed himself. By reading several passages in this pamphlet, the jury would see that the planters as a body are pointed out in as clear a manner as words could describe them. He would now read the preface: "I present the Indigo planting mirror to the Indigo Planter's hands, now let every one of them having observed his face erase the freckle of the stain of selfishness from his forehead and in its stead place on it the sandal powder of beneficence, then shall I think my labour successful; good fortune for the helpless Ryots, and preserva-

tion of England's honor. Oh, ye Indigo Planters! your malevolent conduct has brought a stain upon the English nation which was so graced by the ever memorable names of Sydney, Howard, and Hall and other great men. Is your desire for money so very powerful that through the instigation of that vain wealth you are engaged in making hole like rust in the long acquired and pure fame of the British people. Abstain now from that unjust conduct through which you are raising immense sums as your profits, and then the poor people with their families will be able to spend their days in ease. You are now a days purchasing things worth a hundred rupees by expending only ten and you will know what great trouble the ryots are suffering from that. Still you are not willing to make that known, being entirely given up to the acquisition of money. You say that some amongst you give donations to schools and also medicine in the time of need. But the Planters' donations to schools are more odious than the application of the shoe for the destruction of a milch cow, and their grants of medicine are like unto mixing the inspissated milk in the cup of poison. If the application of a little turpentine after beating by Shamachand (an instrument made of leather used by the planters for beating the ryots) be forming a dispensary, then it may be said that in every factory there is a dispensary. The editors of two daily papers are filling their columns with your praises and whatever other people may think, you never enjoy pleasure from it, since you know fully the reason of their so doing. What a surprising power silver has? The detestable Judas gave the great preacher of the Christian religion, Jesus into the hands of the odious Pilate for the sake of thirty rupees, what wonder then, if the proprietors of two news-papers becoming enslaved by the hope of gaining one thousand rupees, throw the poor helpless people of this land into the terrible grasp of your mouths *But misery and happiness revolve like a wheel* and that the sun of happiness is about to shed his light on the people of this country, is becoming very probable. The most kind-hearted Queen Victoria, the mother of the people, thinking it unadvisable to suckle her children through maid-servants has now taken them on her own lap to nourish them. The most learned intelligent, brave and open hearted Lord Canning is now the Governor General of India: Mr. Grant who always suffers in the sufferings of his people and is happy when they are happy, who punishes the wicked and supports the good, has taken charge of the Lieutenant-Governor ship and other persons, as Messrs. Eden Herschel, &c. &c. who are well known for their love of truth, for their great experience and strict inpartiality are continually expanding themselves lotus-like on the surface of the lake of the civil service. Therefore it is becoming fully evident that these great men will very soon take hold of the rod of justice in order to stop the sufferings which the ryots are enduring from the great giant the Indigo Planter.

Now he thought it was needless for him to give any explanation regarding this preface, and before he went into the question of beating

it would be important that they should know whether that was the only thing that a planter resorted to in the mofussil. He would ask them if their kansamah wanted to catch a fowl whether he would throw some grain and endeavour to get it by that means, or he would resort to stone. The man who beats fared the worst. The moment he was known as a "*marpeet*" not a single ryot would approach him. It was intended that this pamphlet should go forth to England, that the planter and his doings should be misrepresented, and poison the English mind. Now he must certainly say that a more scandalous and unwarranted libel against a respectable class, he never heard of. It had been set up as a sham to heal the wounds and for the recovery of the tortured natives. That was the language of the pamphlet and which would be most willingly swallowed by Mr. Layard and communicated to the British nation. It was done to get up an indignation and to strike at the root, the growing of Indigo. He was glad that this matter had come before a court of justice, where it will be shown that was ever not the impression of the native, and the feeling supposed to be entertained by him towards the English was far from what the pamphlet represented it to be. One could hardly contemplate the mischief it was calculated to create. Having been issued from a Government office it was made to appear that it was published by the authority of the Government and whatever was stated by the author, the Government had believed to be true. It was the duty of the defendant as a missionary to have contradicted the statements in the pamphlet instead of giving them greater publicity by translating it. He ought to have told the people that it was an exaggerated representation of the system and they should not believe it. That for the faults of one or two men they were not to condemn a whole body. If the system was bad was it of any good to publish such a libel? Was such a production to come from a missionary of the church of Christ? It was not his (Mr. Peterson) business to point out the difference between the original and the translation. They would see the crafty work of the missionary in this passage "The Editors of two daily papers are filling their columns with your praises, and whatever other people may think, you never enjoy pleasure from it, since you know fully the reason of their so doing What a surprising power of attraction silver has? The detestable Judas gave the great preacher of the Christian religion, Jesus into the hands of the odious Pilate for the sake of thirty rupees." Why compare Judas Iscariot? Where was the excuse for a missionary? As a Christian missionary it was one of the most indelicate libels he could have written. He was not prepared to say that this passage was in the original but at all events one could have expected that a missionary would have omitted that part of it. Mr. Brett came forward and he had a right to come forward, since he had been charged with prostituting his press for the sake of a few hundred rupees. Perhaps it would be asked Why is Mr. Brett alone here when two daily papers were set forth. It was not necessary that the editor and manager of the *Hurkaru*

should be included in the prosecution. Now to revert to the preface. One could not help seeing the quantity of rancid butter that had been heaped upon the present Governor. He was the most learned, intelligent, brave and open-hearted, thinking no doubt that this would all be swallowed up as praise. It was a piece of trickery to carry favor of the authorities. Then the Lieutenant-Governor who always suffers in the sufferings of his people and is happy when they are happy. He could not be happy now, for the ryots were not. (laughter) He hoped, however, he enjoyed more happiness (renewed laughter). Then came the Messrs. Eden and Herschel who were continually expanding themselves lotus-like on the surface of the lake of the civil service. Well he did not know how many lotuses there were, but he hoped the gentlemen were making themselves comfortable on the smooth lake (Great laughter). Then came the great giant *Rahu* who is supposed to eat the moon during the time of the eclipse of the sun. Without drawing further on the imagination of natives or Europeans the great giant is represented *uno disce omnes* as the devourer of Ryots; decoying them away in the dark and so forth. Before he went into the *dramatis personae* he would give them a slight introduction as to the virtues and vices of the opposite class. There was so much virtue in the one that vice was no longer triumphant. It commenced with happiness and ended with misery; every person was dying from the violence of the planter.

Whether the drama was the mode of depicting native society or not, it was intended by this production to hold up the general body of Englishmen to the odium of the native population. He would now read to them Act I, scene II.

The learned council then read numerous passages commenting upon each and explaining to the jury its drift and aim After which he concluded with the following remarks:—

He must now resume the thread of his argument. He believed he had quoted enough to give the jury an idea of the contents of this scandalous and mischievous production. He had summed up the funeral scene of the once happy *Sadu* and his family. He would now proceed to make his remarks and they might draw their own conclusions. He would leave them to say whether it was libel or no libel; defendant guilty or not guilty. He had pointed out the leading features of the work. The planters had killed the *Kafir*, virtue had been destroyed and vice left triumphant. Do they believe that to be the state of society in the mofussil? He would ask what business has any person to publish any thing calculated to set one race against another. Was society in such a state that it required the aid of the missionary's pen to improve it. They were to consider whether his interference was not calculated to do more harm than good and whether he really acted for the interests of society, and whether the darma depicted and written in that style, tended to bring about a good feeling between the natives and the Europeans. It had been clearly shown in the author's preface that the motive was any thing but to bring about

that feeling, and such being the case and if they believed that the state of society was such, that there was no necessity for a publication of the kind, and that the planters had been dealt with most harshly, they must without any hesitation call the defendant a libeller. There could be no question that the charges of arson and other crimes brought against the planter were to make the world believe that that was his real character. All that they required to be satisfied with, was that the defendant was the publisher of the libel and he would prove that beyond all doubt. Possibly it might be suggested by the learned counsel for the defence that when he presented this pamphlet there was no secrecy about its publication. But he was prepared to show that the whole matter was kept a profound secret till the books were sent for. It was the mode of publication which destroyed the force of that argument. If it had not been so conducted it would have been different. By the engine this was propagated there was visible an agent acting under his direction and he might say it was put in force by a most useful part of the Christian community of this country. It had been known that the Indigo Planters have done a great deal to increase the commerce of the country and still they were to be attacked by such a worthless libeller. He had said quite sufficient as to the intention of the libel, its publication was worse than malicious. It did not give the parties an opportunity of rebutting the attack and it had been attempted to be circulated with the greatest possible secrecy. He should not travel back on the same ground Sooner or later by their verdict it would be decided whether the act of the defendant was a constitutional privilege or it had gone far beyond that. It would also be a question whether there was the slightest ground for such an attack. He need not tell them the circumstances under which it was intended to stab these persons in the dark.

The defendant was represented by very able men, who would fight his case thoroughly and set to right any thing he had misrepresented. He did not address them in behalf of any particular class, but he represented the whole European population of Bengal, himself included. Now he should press the case for this reason. Had the name of James Long been put on the publication and openly circulated, the case would have been quite different.

It was with difficulty that it had been ascertained that the Bengal office was the receptacle of this mischievous production and nobody could get a copy of it until it was sent down from a remote part of the country. Was secrecy required for the propagation of truth, to show the people the native feeling and native society. Why not give the parties so grossly attacked a chance to rebut the foul calumnies. Why send to Lahore. Was it fair play to condemn without hearing the defence. The word mischief became synonimous with missionary. Whether the ground of publication was calculated to do a great deal of mischief between the two races he would leave them to judge. They must know the amount of disturbance that had been caused by missionary interference both in Demarara and the Cape.

He was sorry to say that the religious prejudices of many brought religion into contempt. Religion must not be perverted in its term. The right mode of converting the heathen was not by creating an ill will between the convert and the Christian. He would ask them to consider what would be the position of the Europeans in isolated districts if such bad feelings were to be created. Their life hung as it were with a thread. He did not wish to excite or draw down their sympathy ; but he simply wished to point out the mischievous acts of the parties. A man might rightly or wrongly give his opinions and comment strongly on the conduct or feelings of any class provided he did not exceed the bounds of legitimate discussion. But were all planters to be denounced as men who were worse than brutes, who did everything that was wrong and that they were hated and despised by their neighbours. He would ask was that the act of a conscientious man whose business it was to inculcate charity, but not to create dissension. They all knew that their late Bishop in his sermons spoke of the state of society sometimes in very strong terms, but it was the conduct of a bold man, and there was nothing objectionable in it. That was the act of a kind comforter of religion. Then was a missionary to be allowed to interfere with a staple article of commodity in that way. Christian charity ought to have dictated to him that he was doing wrong. He had represented Messrs. Rose and Wood as the great capitalists and their acts of oppression. He would ask them to reflect for a moment how much the conduct of the Reverend gentleman would affect the interests of such a firm as Jardine Skinner and Co., who were the great Indigo capitalists. It might be said that the Reverend gentleman did not adopt the views of the writer of the pamphlet ; but he thought so long as he had translated and published them he adopted his views. By showing the world that such a state of things existed in the mofussil he brought very serious charges against a whole body. Had there not been any attempt made before? Could they shut their eyes against the writings of the Revd. Messrs. Sale and Bomswetch and others which have brought about a political conspiracy.

What would be the conduct of a right thinking man? Why, not to attempt to convert the natives by shewing up the wrongs of those whose religion he wished them to follow. If every missionary were to follow such a course, he would not, he was certain, get a single convert. Now why were not the charges brought and proved in a substantive manner instead of being circulated privately and beyond the reach of those who were affected by them. He should be the last person to say anything against the freedom of discussion. The Press had its vices and its abuses. If it exceeded its limit there was the law to protect the parties abused. But who were the black sheep? His clients have complained to vindicate their character and he trusted that by their verdict they would gain their point. They should have no pity for a man who propagated calumnies such as were contained in this libel. A question might be raised of justification. It was impossible that the defendant could justify his acts. Although it might be

said that he acted from information received, that would not justify his acts. He was responsible for every line he had translated; and as regards the question of malice, all he would say was that the proof of the malice was contained in the libel. The avowed object appeared to be to excite the feelings of the natives and to ridicule the planters. That virtue alone was to be found in the native population, that Englishmen were the curses of the country. Were they to believe that the native women became the victims of their lust and good God, were they to believe that their wives prostituted themselves to the officials with a view of gaining power to carry on their atrocities, and were such libellers to go unpunished?—men who would not scruple to bring about a feeling which would drive every Englishman directly or indirectly connected with Indigo out of the country. It would be their duty to return a verdict of guilty and that of the Judge in sentencing, to temper justice with mercy, for which the bench was conspicuous. He could not help repeating what would be the consequence if people were to be allowed to excite the feelings of a race which numbered some thousands to every European residing in isolated districts. Their adversaries would be like the Maharatta horsemen or the Moslem hoarde and would have to fly from the country.

The learned counsel then concluded his speech which lasted for nearly four hours. After which the following witnesses were examined:—

CLEMENT HENRY MANUEL TO MR. COWIE.—I am a printer in Calcutta. My press is the Calcutta Printing and Publishing Press. I printed this pamphlet called the *Nil Darpan*, I received the orders to publish it in April or May last (1861.) I received the orders to publish, from the Rev. Mr. Long. He gave me his orders in person. He sent me portions of the copy from time to time. I received directions from him to print 500 copies. I printed that number. I sent these 500 copies to Mr. Long's house after they were printed, as it is the general practise. I returned the manuscript with the proofs to Mr. Long, I don't know what was done with the printed copies after they were published. My charge for printing was nearly about 300 rupees. Mr. Long paid the money. My office is at No. 10, Westons' Lane, Calcutta.

Cross-examined by Mr. Eglinton—Mr Long came to me himself. There was no secrecy about it. I was not pressed by any person to give up Mr. Long's name. I gave his name up at the trial with his consent.

TO MR. COWIE.—I was indicted in the first instance as the publisher. Mr. Long advised my counsel to give up his name, and the name was given up. Before that I was never called upon to give up Mr. Long's name.

TO MR. EGLINTON.- I believe the proofs that were passed were in Mr. Long's handwriting.

To Mr. Cowie. —The proof sheets are always sent before they are finally passed to the author for his corrections. I have the proofs with me. These are the proofs.

[The witness here pointed out Mr. Long's corrections on the proofs.]

To Mr. Eglinton. —I am not sufficiently acquainted with Mr. Long's writing. I speak from the opportunities I have had of knowing his writing.

Walter Brett. —I am the Managing Proprietor and the Editor of the *Englishman* paper. I have been Manager for two years and sole Editor since March last when my coadjutor Mr. Saunders left. Before that time I have been the manager and joint editor. I know that for more than two years there has been a great discussion about Indigo, and I have taken a very great part in that discussion. A commission was appointed by Government to enquire into the rights of the native ryots and the position of Indigo Planters in relation thereto. My paper according to the evidence given before that commission, naturally took the view of the Planters. The *Bengal Harkaru* naturally took the same view. The two daily papers mentioned in the *Nil Darpan*, I believe to be the *Englishman* and the *Harkaru*. I first received a copy of this publication on the 25th or 26th of May. I believe it to be the 27th May. I wont swear positively to that; it was either the 26th or 27th. I can't tell who sent the copy to me. I got it from a peon, it was under cover and addressed to the Editor of the *Englishman*. I had sent for a copy, but before I got that this one reached me. I afterwards received copies of it from several quarters. I can't state the parties from whom I received them. I am not acquainted with Mr. Long's handwriting. From the knowledge I have had of the subject I have no doubt that the papers alluded to are the *Englishman* and the *Harkaru* The *Phoenix* took the other line unnaturally. I may say, I read this publication and I have no doubt that the parties alluded to in it are the editors of the papers I have mentioned.

Cross-examined by Mr. Eglinton.—I am a member of the Landholder's Association. The Association has paid for the prosecution. I heard it asserted, but not upon any authority, that some of the members dissented from the Association to pay for this prosecution. I am not an Indigo-planter. I have nothing whatever to do with it. I can't call myself an Indigo-planter of Lower Bengal. I observed that the *Englishman* and *Harkaru* were constantly styled by the other publications as the two Indigo Journals. There are several daily papers in India, some of those papers advocated the cause of the ryots, but the majority of them advocated the Indigo interest. I said that the *Phœnix* unnaturally took the view of the question the other way. I know nothing of the views of the native papers. If you mean the English native papers, I know that the *Hindoo Patriot* and the *Indian Field* took a view altogether opposed to mine.

MR. EGLINTON —In these papers are the planters represented as oppressing the natives? What are your inpressions as to the general feelings against the planters?

THE JUDGE.—How are you trying to use that Mr. Eglinton?

MR. EGLINTON.—I want to show the independent public opinion as to the Indigo question.

THE JUDGE.—I have no objection to your putting it, but I could not admit Mr. Brett's impressions.

MR. EGLINTON.—The witness has given his opinion as to his papers and I want to know impressions as to the line followed by the others.

THE JUDGE.—The learned Council for the prosecution had a perfect right to ask the witness anything regarding his own paper, and unless you produce those papers, you can't ask him any questions upon them.

MR. EGLINTON.—The witness has stated his opinion about the *Harkaru* without its being produced, and I think I have a right to ask what his impressions were as to the others.

THE JUDGE.—But that related to the two papers mentioned in the libellous publication.

After some discussion the question was allowed to be put.

MR. EGLINTON.—Are you not aware as a matter of fact that those papers advocated the cause of the ryots and took an opposite view to that taken by you?

WITNESS.—As a matter of fact I don't know they have. To the best of my belief they have taken such a view. They exhibited a strong prejudice against the Indigo-planter, whether that prejudice is founded on truth or not the balance goes quite the other way.

EXAMINATION CONTINUED.—The *Englishman* has a large circulation, that circulation was not decreased by the publication of the libel?

MR. EGLINTON.—I believe your paper is as much respected now as it had been before the publication of the libel.

WITNESS—That is a question for outside and not for me to answer (Laughter).

MR. EGLINTON.—Now is it not a fact that since you took up the Indigo question you have had a large increase to your subscription list by Indigo-planters subscribing to your paper.

WITNESS.—If you speak proportionally, I say no. If you wish me to go into details as to my subscription list I must object to answer that question, unless I am compelled by the court to do so.

THE JUDGE.—I know a similar objection having been raised in England by a newspaper proprietor, who objected to state the num-

ber of a particular class of his subscribers, because he thought it would affect his advertisements.

MR. EGLINTON.—I don't understand Mr. Brett to refuse to answer the question upon that ground.

MR. BRETT.—Before I answer any such questions I shall ask the protection of the Court. I object to answer the number of any particular class on my subscription list.

THE JUDGE.—A newspaper proprietor has as much right to be protected as any merchant who would come into this court and object to disclose his accounts. If it is a question which has an immediate bearing on this case, I should ask the witness to answer it.

MR NEWMARCH here rose to explain.

THE JUDGE.—Though Mr. Eglinton was quite competent to conduct examination, it was irregular for two gentlemen to address the Court.

MR EGLINTON said —Mr. Newmarch wished to explain that the question had an immediate bearing on the present case, in as much as the first count of the indictment mentioned that two of the journals had advocated a particular interest for a thousand rupees. The question was put with the view of eliting some information as to whether the witness's paper had not gained by such subscription the amount stated.

THE LEARNED JUDGE thought the question might be put in this shape—whether by the particular views. Mr. Brett had adopted, that did not bring him additional subscribers and whose subscriptions amounted to a thousand rupees.

MR. EGLINTON TO WITNESS.—Since those articles on the Indigo question have appeared, has the number of your subscribers, I mean Indigo-planters, increased or decreased ?

WITNESS.—I did not come prepared to answer this question absolutety : but I think it has not increased by one. Perhaps the Court would allow me to explain that there has been a considerable change in the constitution of my paper, and my subscription list has been increasing on a stated average for the last two years.

MR. EGLINTON.—I wish to ask the witness another question. I wish to know whether before the date of libel, Mr. Brett as editor of the Englishman had not received from the Planters in the shape of subscriptions a thousand rupees.

Mr. Cowie objected to the question being put. What was aimed at appeared to be whether before the publication of the libel the witness had, instigated by a hope of gain, advocated a certain view and received that amount of remuneration. Though he did not think even if that question was answered to the affirmative, it could have that bearing.

The Judge said all that the learned counsel for the defence wished to know was, whether Mr. Brett had received such additional subscribers in consequence of his advocacy of the Indigo interest. As he said before, a news-paper proprietor was required to be protected in the same way as a merchant.

Mr. Eglinton contended it was a very proper question and would insist on its being put.

MR. BRETT —I refuse to answer it, because I consider that as a part of my trading matter.

THE JUDGE.—I shall allow the question to be put, but at the same time I consider it an irregular question.

MR. EGLINTON TO MR. BRETT.—My question is simply this—whether before the publication of this libel your subscription list from the Indigo-planters amounted to a 1,000 rupees a year?

MR. BRETT.—Am I to answer that question ?

THE JUDGE. --Please answer it?

MR. BRETT.—Yes.

MR. EGLINTON.—I suppose news-papers all over the world advocated different cases and particular interests ?

MR. BRETT.—I should say they did.

THE JUDGE.—It did not require the evidence of Mr. Brett to prove that fact to the jury.

MR. EGLINTON.—I merely put the question, so that my learned friends might not object to my stating so to the jury on the ground that it was not in evidence.

MR. COWIE.—I must ask you one question, Mr. Brett. Did you advocate this case with a view of gaining the 1,000 rupees?

MR. BREET.—Certainly not.

MR. COWIE.—Do you consider this statement in the *Nil Darpan* about taking a bribe of a 1,000 rupees as a charge against you for having advocated the cause of the Planters?

MR. BRETT.—I do.

ALEXANDER FORBES to MR. PETERSON.—I am the present editor of the *Harkaru* and have been so far the last year and a half. I was so in May 1851. I have read the *Nil Darpan*. I see the passage which refers to the editors of the two daily papers. The papers referred to are the *Englishman* and the *Harkaru*. They refer to myself and Mr. Brett. I have no doubt about it. I have rightly or wrongly advocated the case of the Planters.

MR. PETERSON.—Have you like Judas Iscariot taken 30 rupees and sold the ryot's cause?

MR. FORBES.—I have not (laughter).

THE JUDGE.--I shall take that down, that Mr. Forbes has not like Judas Iscariot done so (Renewed laughter.)

MR. FORBES CONTINUED.--The *Harkaru* and the *Englishman* are the two papers which have advocated the Indigo interest. I have not only been an editor but an Indigo Planter. I have directly been engaged in Indigo-planting and zemindary for 15 years and indirectly for 3 or 4 years. I have not read quite through the publication. I know from what I have read the Planters are attacked as a general body.

MR. PETERSON.--Do the Indigo-planters torture the Ryots?

MR. FORBES.—An Indigo-planter could not manage his business if he struck a single native.

MR. EGLINTON.—Objected to the question. Mr. Peterson had no right to ask it. They had nothing to do with the truth or falsity of the libel.

Mr. Peterson thought he had a right to put the question, as a good deal depended on the truth or falsity of the statements contained in the pamphlet.

Mr. Forbes repeated his answer to the question.

MR. PETERSON.—What is meant by the words that the ryots will be made to drink the waters of the seven factories?

MR. FORBES.—That he was carried from one factory to another and confined there.

MR. PETERSON. - What are the duties of an Ameen?

MR. FORBES.—The duties of a Factory Ameen are to make advances to the ryots and generally superintend the cultivation of Indigo It is his province to mark the land for cultivation, subject of course to the approval of the planters. In every factory they have an Ameen who has charge of every 200 beegahs.

MR. PETERSON.—What is meant by this passage? "We shall make you eat &c."

MR FORBES.—It is meant that he will be confined in the godown.

MR. PETERSON.—Again, "we have nearly abandoned all the ploughs still we have to cultivate Indigo."

MR. FORBES.—It means compulsory labour.

MR. PETERSON.—Again, "Just write to the attorney not one of these shall be let out"?

MR. FORBES.—"It is intended by confining them, to compel them to give false evidence."

MR. PETERSON.—Then at page 45 between Planter and Gopi—"Saheb grant pardon for this bad conduct; the Ameen brought his own sister to our younger Saheb's room. What meaning do you attach to that?

MR. FORBES.—That he brought her there for bad purposes—to have carnal connection.

MR. PETERSON.—I believe you have considerable experience with regard to native customs and manners.

MR. FORBES.—I have.

MR. PETERSON.—Is the drama a particular mode of representing or expressing the state of Society among the Bengalees?

MR. FORBES.—It is.

MR. PETERSON.—Is the drama a favourable mode of depicting the several states of native society?

MR. FORBES.—Yes.

MR. PETERSON.—I believe Dacca is a famous place for the getting up of dramas of this kind, and the people there take a peculiar interest in it.

MR. FORBES.—Yes they do

THE JUDGE.—Do these dramas represent fictions as well as truths?

MR. FORBES.—They are fictions with a great deal of truth in them.

MR. PETERSON.—Would in a native population this drama be believed by the natives as representing the feelings of the natives against Planters.

MR. FORBES.—Not if they are acquainted with the character and conduct of the planters.

MR. PETERSON.—But I mean in those places where planters not sufficiently known?

MR. FORBES.—I believe it is so in Calcutta where Europeans are not known.

MR. PETERSON.— Are you acquainted with Mr. Long's hand-writing?

MR. FORBES.—I am.

MR. PETERSON.—Look at these proof sheets and tell the Court whether the writing on them is Mr. Long's or not?

MR. FORBES.—I see corrections in various parts. These words "500 copies" are in Mr. Long's writing. Also the correction in page 54 the "Peadah" in substitution for the word "Bailiffs," is his writing. In page 65 the words "to press" are in his hand-writing. The correction in page 20 I am not quite certain of, because it is written more clearly than Mr. Long writes, as to the rest I have no doubt.

MR. NEWMARCH.—Since you have joined the *Harkaru* has it not become much stronger?

MR. FORBES.—I have not read the paper for several years before that, and I could not therefore say whether it is now stronger or not.

MR. NEWMARCH.—It has been most strenuous in its advocacy of the Indigo interest ?

MR. FORBES.—I cannot say, but I hope it has been.

Mr. NEWMARCH —You have done so to the utmost of your abilities, and they are I believe not small.

MR FORBES.—I have.

MR. NEWMARCH.—I suppose you have no objection to tell us if your subscription list has increased by planters subscribing since you took up the Indigo question ?

MR. FORBES.—I never looked to the subscription list. All I know is that after I joined a good many subscribed.

MR. NEWMARCH.—No doubt those subscriptions were much larger than 1000 a year ?

MR. FORBES.—I have not the least idea.

MR. NEWMARCH.—Are there not a good number of English daily papers in India.

MR. FORBES.—I believe there are six.

MR. NEWMARCH.—Have not some of these papers taken an opposite view of the question from that taken by you ?

MR. FORBES.—In Bengal with the exception of one daily paper the others advocated the cause of the planter.

MR. NEWMARCH.—Don't you believe that those who entertained different opinions from you did so conscientiously.

MR. FORBES.—When it arose from ignorance of the subject. I believe there are no conscientious men who know anything about the subject who held a different opinion from myself as to Indigo Planting. There are many conscientious men who believe so, but I don't think they are a large body. I know a great deal of native society. There is a large body of natives who have a strong feeling against the Europeans.

MR. PETERSON.—That being your feeling, do you think the publication of the *Nil Darpan* would bring about a good feeling.

MR. FORBES.—Certainly not. I think the feeling against the Europeans will be greatly increased by it ?

MR. PETERSON.—Do you know where the original of the *Nil Darpan* has been published ?

MR. FORBES.—I have been told in Dacca.

MR. PETERSON.—Do you know that the drama has been represented there ?

MR. FORAES.—Yes I have heard so. I received the information by a letter from Dacca, that drama was presented there.

THE JUDGE.--Beyond giving you any personal annoyance, has the publication of this pamphlet injured your paper in any way?

MR. FORBES.—I don't think it has been injured.

THE JUDGE.—Of course, you can't tell what the effect would be in England.

MR. FORBES.—I can't tell.

MR. WALTER BRETT RECALLED TO MR. COWIE.—The first intimation I received of the publication was by a letter from Lahore, containing an envelope which I produced, It was from the editor of the Lahore Chronicle. I got this 2 days before I wrote to a certain quarter for a copy. It was in consequence of that I asked for official information.

THE JUDGE.—Beyond any personal annoyance you felt, has your paper been injured in any way by the publication of the pamphlet.

MR. BRETT.—From communicaitons I have had I think the publication had a tendency of increasing the prejudice of the native subscribers against the paper.

THOMAS JAMES TO MR. COWIE.—I am the Registrar of the Bengal Secretariat Office. I have been so for the last 4 years and a half. A good number of copies of the *Nil Darpan* was sent to the Bengal office.

MR. COWIE.—Who were they sent by?

MR. EGLINTON.—I object to that question being put, you have a right to ask the witness any question as to what became of the numbers, but you have no right to trace them to the party from whom the witness had received them.

THE JUDGE.—Indeed, I think it is a very legitimate and proper question.

MR. COWIE.—Perhaps my learned friend is apprehensive that we might entrap the witness into making certain admission. But that is not our intention; we want to find out the mode of its publications.

THE JUDGE.—I have the evidence before me that Mr. Long had paid 300 rupees for the printing of 500 copies. Therefore, I don't think that question matters such.

MR. EGLINTON.—I say it is an improper question, because you have no right to trace the publication to the person from whom the witness got it. You have the fact of the copies having come into the possession of the witness.

THE JUDGE.—If Mr. Long parted possession of the books he must stand the consequence of its distribution in the same way as a person who entrusted a publication to a printer. I shall take care that not an atom of evidence which would affect Mr. Long would be taken down by me unless it was legal evidence.

Mr. Thomas Jones resumed—These copies were circulated under my frank as Registrar of the Bengal office. No communica tion was made to me on the subject by the Government. I believe they were sent by the Reverend Mr. Long.

Mr. Cowie.—Who gave you instructions for the distribution of the copies?

Mr. Eglinton.—I object to that question. There is no evidence that Mr. Long authorised their distribution or their despatch to Lahore.

Mr. Cowie.—That is what we want to find out. Who sent the copies to the Bengal office?

Mr. Jones.—Mr. Long I believe.

Mr. Cowie.—Why did he send them?

Mr. James with some hesitation.—For distribution, I presume.

Mr. Cowie.—Did he ask you to distribute them?

Mr. James.—He did not ask me.

Mr. Cowie.—Did he ask anybody else? Why did he send them to you?

Mr. Jones.— I can't say if he did.

Mr. Cowie.—Did you send many up-country with the frank of the Bengal office?

Mr. Jones.—I did.

Mr. Cowie.—How did you know to whom they were to be sent.

Mr. Jones.—Because the copies were accompanied by a list containing the names of the parties to whom they were to be despatched. I have not the list with me I will send for it.

The Judge.—You said that you received 500 copies.

Mr. James.—I have only returned the other day to office, after an absence of a month and my memory is not quite clear as to the exact number. I think it was 500.

To Mr. Cowie.—I received the list after a portion of the copies was distributed. This list was in the handwriting of Mr. Long. I directed them to be sent according to the list. I don't remember when I received the list I think it was about the early part of May. This is one of the covers under which one of the copies was despatched to Lahore. It bears my frank and is dated the 16 May. The distribution occupied more than 2 or 3 days. Some copies were sent home to England previous to my receiving the list. I don't think any copies were sent to England after my receiving the list. I can't at present recollect the name of any person to whom they were to be sent.

THE JUDGE.—I want you to explain to the jury why the copies were sent to a Government Department?

MR. JONES.—I can't, my Lord.

THE JUDGE.—Do you know that any communication had been made to the Bengal Office before these papers were sent?

MR. JAMES.—I am not aware of any in the present case.

THE JUDGE.—Why do you draw the distinct.—Were you in the habit of receiving such papers before?

MR. JONES.—I have been in the habit of distributing such papers, but always under the authority of the Secretary.

THE JUDGE.—Are papers received in the office without the knowledge of the Secretary and circulated without his knowledge?

MR. JONES.—Certainly not, my Lord.

THE JUDGE.—Were these papers sent in such a manner as the people would understand that they were circulated and directed from the Bengal Office?

MR. JONES.—They were, my Lord.

THE JUDGE.—Was there anything in the envelope to show or to make any person suppose that the papers were not sent by the Government.

MR. JONES.—None my Lord.

THE JUDGE.—I wish to know whether the course adopted in the Bengal office in this case as to the circulation of the papers had ever been followed before?

MR. JONES.—I have frequently circulated native publications indicating native feeling and education and improvement?

THE JUDGE.—Have you read this publication?

MR. JONES.—I have not read half a page of it, my Lord.

THE JUDGE.—Have you been in Court the whole day, and have you heard the passages read by the learned Counsel for the prosecution?

MR. JONES.—I have, my Lord—For the first time this day, I know its contents.

THE JUDGE.—Have you seen similar productions as this before?

MR. JONES.—Within the range of my recollection, I don't believe I have seen a similar one.

WILLIAM FREDERICK FERGUSSON.—I am at present Secretary to the Landholders' Association. The present prosecution has been instituted by the Association.

Mr. Tom Jones recalled.

THE JUDGE.—Do you think the publication is illustrative of the

manner and progress of the native mind, and that as an advancement in their style of writing, the Government were anxious to circulate it?

Mr. Jones.—I can't say, my Lord.

Mr. Fergusson's examination continued.—The action was instituted by the unanimous resolution of the Association. It comprises of Indigo-planters and others not connected with Indigo-planting. I have persused the publication and have no doubt as to its application. The effect would be to create a bad feeling between the ryots and the planters.

To Mr. Eglinton.—I don't say that many of ryots would be able to read the English translation. Those who could read Shakespere might be able to read it (a laughter). I am not aware that a single member was adverse to the proposition to institute the present action. There was one gentleman who seemed against it, but he was not exactly opposed to it. He said why should they attack inferior tools when they can look at higher game. There was a discussion as to which of the parties should be prosecuted.

Simon De Cruz.—I am employed in the Bengal Office. I have just enquired for the list and have been told that it is not in the office. I searched for it, but could not find it, I saw the list before. It was in my possession. I don't know whether it was in Mr. Long's handwriting. I gave it to native about a fortnight ago. He told me that Mr. Jones wanted it.

Mr. Jones recalled.—I have been away from the office a month. I saw the list at the time of the distribution. It was filed among the other office papers. I gave it to a person who was in charge of all such papers. I don't remember sending for it before I left the office about a month ago.

The Judge.—Unless it is destroyed it would be there. It could only be removed by the order of the Secretary?

Mr. Jones.—Yes, my Lord.

Mr. Cowie asked DeCruz the name of the native to whom he gave the list. DeCruz replied the man's name was Gopal Chandra Mukerjee.

Mr. Cowie.—Enquired of he could be sent for; Decruz said it was then after 5 and he must have gone home.

Mr. Cowie.—Hoped Decruz would bring him with him to-morrow.

Mr. Peterson.—Said he had no further witnesses to call, except the native whom he would wish to examine about the list and as it was then past 5 o'clock it was impossible that the case could be concluded, the Court had better adjourned.

The Court then adjourned till Saturday the 20th instant.

Second day—July 20th 1861.

Mr. Cowie enquired if the native Gopal Chander Mukerjee was in court. He was told that Mr. Lushington had come with the list.

E. LUSHINGTON, (Examined by Mr. Cowie.)—I produce a list containing a number of names. There is nothing in the list to show that it in any way related to the *Nil Darpan.* When I took charge of the Bengal office I was told about this list. I don't know the handwriting on this slip paper which is attached to the list. The list itself is in the handwriting of a clerk. I kept the list in my drawer. I don't know if Mr. Long saw it. I don't know where this small slip came from. This distribution took place before I joined the Bengal office. The list had been out of my possession for a short time. Mr. Seton Karr had borrowed it and sent it back. I can't say who sent the copies to the Bengal office.

Mr. Cowie enquired if Mr. Forbes was in court to prove the handwriting of Mr. Long on the small slip, when Mr. Eglinton said he admitted the writing to be that of Mr. Long.

CROSS EXAMINED BY MR. EGLINTON.—I have a great number of copies in my possession upwards of 200. I found them in the office.

TO THE JUDGE.—I believe it was in consequence of this prosecution the distribution had been stopped.

THE JUDGE.—Mr. Lushington, just cast your eye on that list It was stated, yesterday by Mr. Jones, that the Bengal office had been in the habit of circulating translation with a view of showing the style of native composition, and the manners and customs of the people, could you tell me whether such publications in ordinary cases, would be sent to the parties mentioned in that list.*

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* The following are the lists put in the court as Exhibits C & C1.

No. 1. Mr. Long's distribution List.

Secretaries of Aborigines Protection Society.
Secretary Peace Society, New Broad Street.
Earl of Albemarle.
Revd. W. Arthur, (Wesleyen. Mission House).
E. B. Underhill, Secretary Baptist Missionary Society.
J. Bright, Esq., M. P.
R. Cobden, Esq., M. P.
Marquis of Clanricarde.
R. H. B. D'Israeli.
D. Forbes, Professor K. C.
E. Gladstone.
Hon. A. Kinnaird, 35, Hyde Park.
Respective Members, Council of India.
J. C. Marshman.
Hon. and Rev. Baptist Noel.
D. Masson, 16 Regent Villas, Avenue Road.
Digby Seymour, M. P.
Secretary, Social Science, Pall Mall.
Earl of Shaftesbury.
A. Dunlop, M. P.
Lord Blandford.
C. Buxton.
J. Muir Esq., 16 Regent Terrace, Edinburgh.
Rev. H. Penn, 11 Highbury Crescent.
Secretary, Branch Education Society.
J. Dickenson, Secretary of India Reform Association.
Lord Stanley, M. P.
J. Horsman, M. P.
J. Layard, M. P.
Sir S. M. Peto, M. P.

MR Lushington.—I should say not. (To Mr. Eglinton.) Books and pamphlets are constantly being distributed at the Bengal Office

This closed the case for the prosecution.

MR. EGLINTON then addressed the jury as follows :—

Gentlemen, in this case I appear for the defendant Mr. Long and however I may differ from the observations of my friend Mr. Peterson in opening this case, I do agree with him in this that the case we are now trying is one of extreme importance, whether as regards the defendant, or as regards the interests of the public, and the free discussion of questions of general interests. Gentlemen, under these circumstances, I confess that it is with feelings of very considerable anxiety that I rise to address you, not from any feeling of weakness or distrust in respect of the interest which I represent, but lest, I should not place before you the various points which may be urged, on behalf of the defendant so fully and powerfully, as others of my learned friends might have done. Gentlemen, I wish to tell you that it is upon you I altogether rely in this case. It is to your firmness and impartiality that I confide the interests of the defendant in this prosecution; and I am convinced that whatever may be the private feelings or partialities of any, amongst you, that you will try the important issue confided to you upon the evidence alone. Gentlemen in

Church Mission Society.
Revd. John Sale.
Revd. A. Schurr.

No. 2.—Bengal Office List.

Secretay of State, 20 Copies.
Earl of Ellenborough.
Earl de Grey and Ripon.
Viscount Raynham.
Hon. J. Waldgrave.
Roundell Palmer.
Col. Sykes.
Sir Culling Eardly.
C. Newdegate.
Sir James Colvile.
J. W. Dalrymple.
H. Ricketts.
Hodgson Pratt.
J. W. Kaye.
J. F. Hawkins.
J. Dickenson, Jt. Secy. to the Indian Reform Society.
M. Townsend.
Sir Erskine Perry.
D. Vansittart, Esq.
J. G. Craig, Esq.
Lord Auckland.
Sir C. Trevelyan.
J. G. Phillimore, M. P.
H. D. Seymour Esq. M. P.
R. W. Crawford, M. P.
Lord Cranworth.
Dr. Lushington.
Sir J. Herschel.
S. Walpen, Esq.
Sir J. Packington.
Sir A. Buller.
H. M. Parker.
Sir S. Fergusson.
Sir Lawrence Peel.

English Editors.

Daily News.
Economist.
Saturday Review.

Indian Editors.

Bombay Times.
Lahore Chronicle.
Madras Spectator.
Moffussilite.

cases of this kind which has been over and over again canvassed in private society and in the public prints, it is impossible, that some of you, at least should not have come into that box, with minds tending to place confidence in the views of the prosecution or in those of the defendant. If that be so I tell you, and I am sure the learned Judge will tell you, that you are to dismiss any such tendencies from your mind and that it is your duty, in considering your verdict, on the issue of libel or no libel, to consider only such evidence as may be produced in this Court. Gentlemen, before going into the merits of this case, it may perhaps be expected that I should make some allusion to the defendant. Mr. Long has, I believe, been known for many years as a gentleman who has taken a great interest in the welfare and advancement of native interests. His reputation and character as a clergyman and a gentleman, have been impeached, and upon this point it will perhaps be sufficient, if I state to you that upon the Grand Jury finding a true bill upon this indictment, he at once found bail in two gentlemen whose own positions and characters are a sufficient guarantee. that they would not lend themselves to aid any unworthy object. I mean the *Revd. Mr. Hutton*, the senior Chaplain of Calcutta, and *Mr. Stewart*, also a clergyman, and I believe the Secretary to the Church Missionary Society. I think, therefore Mr. Long appears before you as a gentleman most unlikely to be guilty of the charges contained in this indictment, and a gentleman entirely undeserving of the harsh and severe remarks which, *Mr. Peterson* in his opening, thought it his duty to make upon him, and which I protest against as alike ungenerous and unfounded. I shall now proceed to consider the case itself, but before touching upon the substantial question raised by this indictment, I beg to call your attention to the procedure adopted by this prosecution, in placing this charge before you; because I think that Mr. Long has a strong claim upon your sympathy in respect of that procedure—the harshest known to the English Law. Gentlemen if the parties who instituted this prosecution, I mean the Landholders' Association, felt themselves aggrieved by this pamphlet, they had three courses open to them. They or one of them might (notwithstanding, as I contend, *Mr. Peterson's* observations in opening) have proceeded by civil action, and in that case Mr. Long might have justified in respect of the matter contained in this pamphlet. I do not say, he would have done so to the extent of upholding on his own behalf, all the matter contained in the pamphlet, because as has already been stated publicly, Mr. Long is far from identifying himself with much of the matter the pamphlet contains. But at last, his mouth would not have been altogether shut, as it now is. Or if, the parties prosecuting, had desired a fair investigation of this matter, they might have proceeded by criminal information, in which form of procedure the defendant would also have had an opportunity of defending himself, and his views, verbally and by affidavit, and before being dragged before a jury, as he has been, the Judge of this Court must have pronounced the case, as one fitting to be brought before a jury. But gentlemen, these courses seem to have been considered too open, too

manly for the purposes of this prosecution, and we find ourselves trying an indictment, under a form of proceeding, which absolutely shuts out the defendant, from going into any evidence whatever as to what grounds he may have had, for the publication of this alleged libel. But you may say, that this is the English Law. If you do say so, I say it is not the English Law, as now administered in Westminister Hall. So harsh, so oppressive was that state of the Law considered, that some sixteen or seventeen years ago, the Legislature passed an Act, empowering the defendant in an idictment for libel, to give in evidence as a defence to the indictment, such matter in justification of the libel in point of fact, as he might be advised. (The learned counsel here read a judgment of Lord Campbell, expressing his opinion of the unsatisfactory nature of the old Law.) That Act, so passed in England has, however, never been extended to this country, and we now find ourselves in this position, that however true in point of fact libellous matter may be, the party publishing it, is altogether barred from giving any evidence whatever upon the point. I think therefore, that Mr. Long has the strongest reason to complain of, the harsh, and I had almost said, vindictive courses of procedure, this prosecution has pursued, and I bring that course to your notice not only as entitling Mr. Long to your sympathy, but remembering the state of Law, as a reason why you should be doubly anxious not to affix upon him a verdict of guilty, without the most anxious and careful consideration. I shall now proceed to make some observations upon Mr. Peterson's opening in this case and here I may say, that I have not the slightest intention of following Mr. Peterson in a number of the topics he thought it his duty to discuss; for instance the relations between the planter and the ryot, the merits or demerits of the advance system, or the position of the Government of this country, are topics, quite foreign to the issue you have to try. Certainly, If I had imagined otherwise, if I had thought an acquaintance with the mofussil or with the Indigo system, essential to the proper conduct of this defence, I should have declined to undertake it altogether. With the truth or falsity of the matter contained in this alleged libel, you have nothing at all to do, and in considering your verdict have no right to look, beyond, the four corners of the book itself. The great fallacy which I think pervaded Mr. Peterson's speech, was this that he assumed that this publication was in the native character. If it had been, then it might have been open to him to enlarge upon the dangers, which might result in respect of the native population amongst which it circulated. But this book is not in Bengalee, it is in English, and it is folly to say it will even have any circulation at all amongst the ryots or any other native class whatever. But it is said that the book is not only a libel on the planters but on the Government, the Civil Service, the whole body of Europeans in this country. Gentlamen, I do not know how that may be, but when Mr. Peterson talked about the Government, not having presented an indictment of its own, I felt that perhaps the reason might be, that in fact the alleged libel was not as I hope, you also will think, any libel at all. Again Mr. Peterson alluded, in strong terms of Mr. Long's not coming

forward in the first instance and announcing himself as the publisher of this drama, I do not know why he should have done so. It is not correct to say that Mr. Long has endeavoured to maintain, an anonymous position with reference to this publication. Mr. Manuel stated in his evidence yesterday, that he had never been pressed to give up the name of the person who furnished him with the manuscript, and I can say from my own knowledge of the fact, that both before and on the occasion of *Mr. Manuel's* trials at the last session's Mr. Long not merely authorized his name being given up, but was most anxious that it should be given up. I shall not stop to enlarge upon this part of the case further, but before calling your attention to the indictment itself, I hope it will not be considered presumptuous if I touch for a moment upon what your duty in this trial is, as it is necessary for the purposes of my argument that I should do so. It is your duty to say whether this alleged libel has ever been published by the defendant as alleged in the indictment. I should hardly dispute after the evidence we have had that there has been a legal publication by Mr. Long. However, as to the extent of that publication, I differ entirely from *Mr. Peterson*, who opened in a somewhat mysterious manner not supported by the evidence as if there had been a systematic and continued circulation amongst the native community. What is the fact? On the evidence it appeared that only some fourteen copies have been distributed in India, being that part of the list in the defendant's handwriting, and I apprehend he is only responsible for so much of the list as is written by him. I do not mean to say that the legal publication of even one copy would not be sufficient to support this indictment, and I only allude to this part of the subject at all to show that this case has been presented to you as to most of its material features, in an exaggerated form not supported by the evidence afterwards produced. Then gentlemen, it is for you and you alone to say, whether the innuendoes set out in this indictment are capable of bearing the construction the prosecution would place upon them, that is, whether this drama was published in the sense assigned to it by the prosecution. You are not to take the construction of *Mr Peterson* as to the meaning of the various passages of the drama relied on by the prosecution, neither are you to take the construction of the learned judge or my own construction, but you are to look at the publication itself and as men of sense and understanding, to say upon the whole case, whether it is capable of bearing the constructions attributed to it by *Mr. Peterson.* I submit that when looked at impartially it nowhere can be said to support the innuendoes set out in the indictment and I shall enter more on that point later. Thirdly, gentlemen it is for you and you alone to say and this perhaps is the most important part of your duty whether this publication was published maliciously and wrongfully in the sense charged in the indictment, and generally it is left in your discretion to decide whether this drama is a libel such as to justify you in returning a verdict of guilty. Formerly it was only the duty of the jury in such a case as this, to find whether the publication and the innuendoes were proved. The question of libel or no libel was left to the Judge.

But in England about the end of the last century when political feeling ran high and indictments of this sort for political offences were common, it was felt by the Legislature, that this state of the law, left an unconstitutional power in the Judge, and the Act, known as Fox's Act was passed which gave to juries the power of determining the question of libel or no libel and to the Judge only the option if he pleased, of expressing his opinion on the question. That is the law which obtains in this court to-day, and I wish fully to know that you are bound to form your opinion upon this indictment, from the publication itself, and irrespective of anything. which you may hear in this court from any other source. I will now turn to the indictment itself. The first count charges a libel against *Mr. Brett* the Editor of the *Englishman* newspaper. Now it is not my intention to cast any reflections upon *Mr. Brett* or the newspaper he edits. *Mr. Brett* is a gentleman whose integrity and character I have never heard disputed, and it is not open to me, even if it were necessary for the purpose of this defence, to comment upon any of this matter which has appeared in his paper. But I will say that if anybody of men ought to be chary of coming into court, to prosecute indictments for libels, it is the managers and proprietors of the Indian Press. For this is beyond dispute, that nowhere has personally invective and strong language been more continuously resorted to, than by the public journals of India. This is a matter of every day experience. It is what you must know well, and I think therefore that *Mr. Brett* or any other editor of a newspaper in this count, ought to exercise the utmost forbearance in matters of this kind. At the same time *Mr. Brett* if he thinks, he or his paper is libelled, has a right to come into this court and ask for redress. The question in this case is, has *Mr. Brett* been libelled. Does the matter in the first count amount to a libel? I deny it, and I hope to convince you that *Mr. Peterson's* interpretation of the passage relied on is altogether erroneous. I submit that, that is no libel. What does it impute. In effect it imputes nothing more than this that the Editors of the two newspapers in question wrote professionally and for money in support of a particular interest. Is that a libellous imputation? If it is, then it is an imputation of doing that which is done in every civilized country in Europe. What is more common than in England to find particular journals, particular pamphlets, particular magazines devoted to the writing up of particular interests. Every political party in England has its own exponent of its own views. The Church, the Bar, the Army, the Navy, the Commerce, each has its own paper devoted to the advancement of its own particular interest, and I say that the imputation conveyed in the first part of the libel relied on in the first count, is an imputation of nothing but what is done everyday where newspapers and other printed publications exist. Then as to the remainder of the alleged libel against *Mr. Brett*, I do not know whether the imputation of the prosecution is that, that passage conveys a comparison with Judas Iscariot. If so I say that such imputation is altogether unfounded, and if you read this passage with ordinary attention you will see that it is *illustration* and not comparison, which is aimed at. Gentlemen, it is for you to draw your

own conclusions from the passage. I cannot do more than press my own views upon you, but I may say that I do believe that upon reading it carefully and finding for yourselves, you will find that the construction I put upon it, is quite consistent with the language used by the writer of the pamphlet. Now gentlemen as to the second count. In that count it is stated that the defendant published the matter therein set out, being nearly the whole of this drama, with the malicious intent, and with the object, therein set out. It is stated to be a libel on the Indigo-planters of Lower Bengal. Why the planters of Lower Bengal, only should consider themselves peculiarly aggrieved, I know not. There is nothing to tie the publication to them personally. But gentlemen, do you believe that they or any one of them really care one pice about the publication? For my part I do not. I see many of them here to-day, and I saw many here yesterday, and certainly I must say, judging from their demeanour and general manner, I never saw men who seemed to me to be further from labouring under the idea of unmerited invective, or who considered it due to themselves, to come to a Court of Justice, and ask for the sympathy of their countrymen through the interesting medium of a special jury. To what then are we to attribute this prosecution? Of that, gentlemen, it is for you to judge. But this I will say that coming before you as it does, you will consider anxiously, before, you by your verdict, sympathize with any thing but what the strict justice of the case requires. If the planting interest really desired to proceed against the guilty parties, assuming there has been ill feeling created or increased by the publication amongst the natives, why did they not, long ago proceed against some publisher of the native edition? That edition, if any, would be the one of which they have reason to complain, and not the one before you as to the publication of which I have already adverted. Now gentlemen, I say there are four grounds upon which I contend you are bound to return a verdict of acquittal on this indictment. First, I say that the indigo-planters of Lower Bengal are an undefined body who cannot present an indictment for a libel upon themselves, regard being had to all legal authority upon the subject. Secondly, I say that this is in fact a dramatic fiction in respect of which no jury would return a verdict of guitly. Thirdly, I say that the matter charged, regard being had to the evidence, is not libellous. And fourthly, say that that there is no evidence at all that this drama was published maliciously, or that it goes beyond the limit allowed for the discussion of topics of public interest. As to the first point, I find no authority for the position that an indictment for libel would lie at the suit of a body like the planters of Lower Bengal. I admit that a libel does lie at the suit of a body of men, and that it is not necessary that any one person should be alluded to in particular. But the authorities which establish that point, some of which as *R. vs. William*, *R. vs. Osborne*, and the like, do not support the position that such a prosecution as the present, at the suit of a body, so undefined as the Indigo-planters of Lower Bengal, can be supported. The learned counsel cited the cases referred to. In these cases the clergy of the

Diocese of Durham, and certain Portuguese Jews residing near a certain street in London were libelled, and it was held that a criminal information lay—but there was a unity and an identity about those bodies of persons which does not exist in the present case. The Indigo-planters of Lower Bengal have no identity or connection one with the other. They have no corporate existence. One planter lives at one place, one, at another, twenty miles off, a third, a perfect stranger to the others, perhaps fifty miles further off, and I say that under such a state of things you will be carrying the law of libel far further, than it has ever yet been carried, if you lay it down, by your verdict, that such a body can support an indictment in respect of a libel upon themselves collectively. The imputation, if any, is upon an occupation. Would an indictment lie at the suit for instance of the Policy-holders of Bengal, of the Lawyers of Bengal, of the Ryots of Bengal, of the Slave-holders of any of the Southern States of America? I submit that no such body would ever think of presenting an indictment such as this, or if it were presented, I believe no jury would listen to it. If any individual member of any of these bodies is personally aggrieved by some libellous publication, let him take proceedings and get justice, but I submit to you that no body of men such as the planters of Bengal, possessing no identity, no corporate existence, can institute such an indictment as the one before you, and that if any of them be personally aggrieved, they must come into court and indict in the usual way. Again, gentlemen, in all the cases referred to, the parties complaining were charged with the committal of some specified actual offence—here the whole imputation is conveyed in the fiction of the drama which of itself would make the case relied on, not applicable. Then, secondly, I say that this is a drama (a fiction with a good deal of truth in it, was Mr. Forbes' deposition of a drama) and that therefore no jury would lay it down as a libel. Every play, every work of fiction has an evil genius as part of the *dramatis personæ.* Sometimes that evil genius is a lawyer, sometimes a physician, sometimes a priest, and sometimes even a woman. But because a writer chooses to present to the world in some one character, the concentrated vice and malignity of a hundred different individuals, is it to be tolerated that that one person is to be seized upon by the class he belongs to, as an intended representative of that class? Because the character of Legree in Mrs. Beecher Stowe's work is the concentrated essence of the worst aspect of slavery, are all slaveholders necessarily Legrees? In the drama before you, Wood and Rose are the Legrees of the work, and is it to be said because they are the characters, the author makes them, that all planters are like them, or that any such intention can be extracted from the drama itself? If this principle is to be established, there are many of the standard fictions of the present day nothing but libels. In these times it is the common custom to call attention to systems or practices requiring reform. You know how "Oliver Twist" was written to expose the work house system; how Yorkshire schools were written down in Nicholas Nickleby, and especially how the whole institution of slavery,

political and social, was treated by Mrs. Beecher Stowe. Now I am far from comparing Indigo-planting with any of these evils, but this I do say, that each of the bodies I have referred to might, if they choose, have instituted proceedings in respect of the writings, in question, yet there never has been a hint of anything of the kind; and why not? Because it would be against the spirit of the times to forbid such discussion, and juries would no doubt lay it down that such discussion was proper and within that length to which the freedom of the press has long since happily advanced. In the publication before you, the characters of Wood and Rose are as bad as can be, and if any such imputation exists, I do not believe that the imputations contained in that drama against the conduct of our countrymen are founded on fact. But I do not find any such imputation against the body of the planters. Mr. Peterson admitted, that as in all other bodies, there were planters whose character and conduct would not bear very severe inspection. I say that in Wood and Rose you have a type of those men, as in Legree you have a type of the worst aspect of slavery, and it is utterly wrong to say that because they form part of the personages of the drama, that they represent an entire class. As to the other imputations I give a like answer. When the imputation is against the Indigo-planting interest generally, I say it is too vague; and where individual characters or vicious nature are depicted, then I say, the body cannot complain, because those characters do not and are not intended to represent the body. If any among the planting interest, can fit the character in Rose or Wood to himself or say it was intended for himself let him come forward and indict upon it. (The learned counsel then proceeded to read and comment upon various passages in the drama, contending that they did not bear the construction imputed to them, and that some of them had a direct tendency to present, the Indigo-planting interest in a favourable light) As to the third point I contend that this publication is not a libel, and much of what I have already said is applicable to that position, I will not therefore repeat myself. These are not times when the freedom of the press or the discussion of public matters is to be at all restrained. The learned Judge will probably lay down to you precisely, what the state of the law upon that point is, but this is well known, that malice apart, the greatest latitude is allowed in the discussion of public questions, and that in fact upon topics of general interest, a warmth and freedom are tolerated, which would not perhaps be submitted to in the case of a single person. Then was this drama published by the defendant maliciously? The whole facts of the case are against any such view. Mr. Long has never identified himself with the truth of the matter set out in this drama. He has altogether disclaimed anything of the kind. He is not the author, neither was he the translator of the work. Those persons are both known, and if necessary they are ready at a fitting time, to come forward and declare their shares in the matter. But from the beginning to the end of this case, there has been nothing shewn, nor even attempted to be shewn, that Mr. Long acted maliciously. There is no evidence of any hostility on his part to the planting

interest, or that he ever received any cause of private quarrel from that interest. What motive could he have in publishing this libel, if libel it be, but the motives which he has himself already publicly declared, and which are utterly opposed to any idea of malice. The work was not published by Mr. Long as true. He did not and does not believe the imputation therein contained, to be true, but he says that there are exceptional cases in every body of men, and that this drama embodies those exceptional cases, the native interest, in the present unhappy state of affairs, recurring rather to them, than to the brighter side of the picture. Gentlemen, I now leave this case in your hands. It is unnecessary that I should for the purposes of your verdict, discuss further the evidence for the prosecution. I believe you will judge for yourselves as to the defendant's motives, and as to other questions before you. If you find this work a libel, and the defendant guilty, then say that you will carry the Law of Libel further than it has ever yet been carried, and will strike a serious blow at the freedom of discussion of public questions in this country. I hope and anticipate, however, that you will see your way to a verdict which whilst satisfactory to the public and to yourselves, will have the effect of acquitting the defendant upon the charges preferred against him in this indictment.

His Lordship then addressed the jury as follows :—

Gentlemen of the jury, the case in behalf of the defence being closed, you are called upon to determine your verdict, which is as important as it is painful. I never felt a deeper anxiety than I feel now in the discharge of my duties, because there is a question involved in this case which has not been raised by either the learned counsel for the prosecution or the defence. There is a great constitutional question which I beseech you to look anxiously and seriously, and whatever may be the opinions of those who are capable of forming a judgment, it is matter for your careful consideration. I told now that there was a point involved which was for the interest of society, and I will tell you that it is neither more nor less than the great constitutional principle, namely, the freedom of the press and perfect free descussion. Not one single word would be uttered by me, that would not have proceeded from one of the Judges of England upon that important question, because it is the first time that this question has ever been submitted to a jury in India, and perhaps this is the first time you have been invited in the Supreme Court of India to determine a case of this nature. As jury, composed of men of position and intelligence, I ask you in dealing with this case, not only to look at the history of England but of India. Important as it is to the respectable body of men, who have been unjustly and seriously slandered in their occupation as Indigo-planters, important as the question is to the gentleman who is the defendant, in this case, that question is of far greater importance, because it concerns every human being on the face of the globe, because it is a question which interferes with the free discussion and the liberty of the press. And it would indeed be monstrous, and I say that emphatically, if that great constitutional principle which springs

rom Westminister Hall, were to be thrown aside by one of the Queen's Judges of this court, and I am sure of this. From the observations I am about to address to you, and they are not of my mind, but that of abler men than myself, you will see what a large and important question you will have to try on the present occasion.

In this indictment there are two counts. I will first deal with the first count and on its own merits alone, and will leave you to consider these observations and to exercise your own independent judgment upon them. Having dismissed that, I will come to the all important question as how you intend to deal with the second count in the indictment.

The first count in the indictment is deserving of your most careful attention, and I cannot agree with the observations of the learned counsel for the defence, who appeared to have dismissed, in rather an abrupt manner, the question involved in this. Because how far it may be politic, how far it may be wise on the part of those who filled the responsible position of conducting journals of this large city, to come into court, is not for me to give an opinion upon, the question of libel or no libel is not the question you have to determine, nor have I a right to address you upon it—that is beyond my province and beyond yours. You have to consider and treat the position of an editor, precisely in the same way as you would any ordinary individual. Although the proprietor of a journal has very great power and influence in giving expression to the views he might entertain, every individual, has as much right as, he has, to discuss a question, and therefore if the editor or proprietor is maligned, he has a perfect right to come into a Court of Justice, and asks justice to be done in the same way, as a merchant or any other man engaged in any profession. I will tell you, gentlemen, but I shall not give an opinion as to how far it is politic or wise for those, who should place themselves in the foremost ranks, to stand up for the liberty of the press and the perfect freedom of discussion, to come into this court and seek for redress; that will be a matter for them to consider, and the only question for you to determine will be, whether or not, a libel had been written and published, reflecting injuriously on the parties complaining. Now let me tell you and there is no use of disguising it from you, the first court stands on totally a different footing;—I must say and I have good grounds for saying so, and that the mode in which the present indictment had been presented, does not meet with my approbation. I object to a personal wrong or injury being mixed up with a large amount of public injury, and I do think that if the gentlemen felt themselves aggrieved, their course was not to prefer a criminal charge, but to have brought a civil action, and to have the question as to the amount of injury fully gone into. But at the same time Mr. Brett preferred not to put damage into his own pocket. He wanted to vindicate his character, because a public wrong had been done, and his character had been assailed, and had a perfect right to do so.

The first count in the indictment is confined entirely to a libel or

supposed libel, and that is the question you have to deal with. It is one, reflecting on the characters of two of the leading journals published in this city. Don't think, gentlemen, that, I want for a moment to influence your minds I merely mention two of the journals, to express myself in an intelligible manner, for you will be the judges to say whether the preface points to the two papers or not. Now let us see what the first count charges.

[His Lordship here read a portion of the first count.]

I am exceedingly obliged to Mr. Peterson, for going through the several passages relied on, and he has certainly saved me and you, a good deal of trouble. He had pointed out the extracts in a manner which has been most useful to me. In support of that I will read to you the introduction, and I will have a word to say, when we come to the case put by Mr. Eglinton of libelling a class of persons, in contradistinction to, a single individual. But at present the only point is that of the book relied upon by Mr. Peterson. First as to the author's preface, and I need not trouble you with any observations on the first part of it, but I will go to the conclusion.

[His Lordship here read a portion of the preface, commencing with the words "The editors of two daily newspapers"]

Now first of all, you must say whether in your opinion, the preface does refer to the Editors of the *Englishman* and *Harkarru*, that is the double issue. Now let us see how the evidence bears that out. Mr. Brett is called and he says :—"I am now the editor and managing proprietor of the *Englishman*, I was an assistant editor before, but since Mr. Saunders left I am now the sole editor," and the reason he gives is this—"I believe that in consequence of certain views I have expressed in favour of the Indigo-planters the pamphlet insinuates "that I have been bribed to advocate their cause." And then he says "We have taken a strong view which I consider a natural view of the unhappy disturbances which had arisen between the Indigo-planters and the Ryots." Now looking at all those questions not in a quibbling manner, but as men of the world endowed with common sense you have to say whether the two papers pointed are the *Hurkarru* and *Englishman*. There may be grave questions here as to identity, for your consideration, but I do ask you to use your common sense and to say whether those are the papers alluded to or not. The learned counsel Eglinton has said there are other papers published in Bombay and Madras. But what does that prove? Does it prove that the editors of the two papers are not meant? Do the papers of Bombay and Madras interest themselves in Indigo matters? I think they have quite enough to write about their own Presidencies. I therefore do say, gentlemen, I would be trifling with your understanding, if I were to ask you to consider which of those papers were alluded to. Supposing your answer to be in the affirmative, then comes the more important question, whether the language used against the two papers amount to a libel? The first point and upon which Mr. Peterson has so fully gone into, is whether the words, —"What a surprising power

silver has &c." is not libellous. What does that mean. Does it not mean that the editors have taken a thousand rupees to advocate the planters' interests? I do put this most anxiously to you, because you have to judge of the integrity, the power of a news-paper editor, and the important duties he has to discharge in conducting his paper just in the same way as any other persons engaged in other pursuits. Does it not appear, that in being attracted by filthy lucre, that he was not expressing his opinions fairly and honestly in respect of a certain class of people. It was nothing more or less than that he had been bribed. The respectability and character of the press is as important as any other institution. Don't think that in the observations I am now making, that I am doing a gross injustice to others, and that I did so, because I cared for the press or that I am influenced by the press on such thing. I must do justice to every man, no matter what his character or position in society may be. The preface goes on :—"The detestable Judas gave the great preacher of the Christian religion &c. &c." Does that mean that they are willing to sell their best interests of society, which would be gain to them, for money. If it means that, then it is the grossest libel which could be uttered. Yet I have a right and a constitutional right to say so, and which England recognized. I don't wish to give my opinion as its being libel or no libel. If those gentlemen who had been exposed in the print, were private gentlemen, bankers, or gentlemen of any other avocations, and such charges as stated in the book were imputed to them, would they not resent it in the same way? Would he be willing to lay himself open to this frightful charge, that he would be able to write down his neighbour? Apply the principle in that way, and take this book in your hands and say whether it is a libel or no libel. A libel, gentlemen, is this. Anything written against a person, so as to degrade and ridicule him, in his status in society. And I think the point of its being sent up country, by the principal which form a particular charge, it is unnecessary for me to trouble you with. That is the question, gentlemen, you have to determine. With reference to that part of the case, it does not matter, whether the injury is great or slight, because you can't in this case tell the amount of injury. All you have to consider is, whether the publication reflected on the character of Mr. Brett as the editor and proprietor of the *Englishman*.

I thought it right to separate the first count, because Mr. Peterson has dealt with it in that way. And now we have to consider the important question. However important it may be to Mr. Brett and however important it may be to the defendant, there is a question far beyond that in importance, namely the injury to society. But before you give your verdict in this case, I solemnly beseech you that every one of you would realise the importance of this question, I trust every one of you would employ your intelligence, and what is stronger your experience, earnestly to consider this question ; lest by having regard to individuals, you would wrong society. What is the second count? It is a count framed on this book which I hold in my hand, and it is alleged that it is a libel, reflecting a body of gentlemen, called the

Landholders and British Indian Association, the members of which are Indigo-planters. The learned counsel for the defence says that this is no libel. It may be reflection on a class It is contrary to law libelling a class. Gentlemen, you will differ from his opinion, when I will call your attention to an authority cited on that point, and it will be for you to say, whether beyond all doubt, an indictment could be preferred in that form, and that authority is fully recognised by Parliament. Some of the leading authorities—a few of them have been cited by Mr. Peterson, are these. The *king vs. Osborne* which is followed by the case. *King vs. berners* and then the case of *Kings vs. Williams* and the more recent case is that of *Kings vs. Evans*. In all these cases it was held that an indictment can be preferred by a class and in the case of the *King vs.* (—?) page 486, the same principle was laid down. In that case, and I think I am not straining the case when I say, that there are not two opinions that according to the authorities, I have quoted, such an indictment can be mentioned. I won't cite any more authorities as it would only be embarrassing you, I can only say, that all authorities maintain the principle laid down, that no matter the libel is against an individual or class, it can be framed in the same manner as was the present prosecution. Some question arose whether the language used or written, amounted to a reflection on that class, and tending to breach of the peace, which is the foundation of the libel. To support this point you must be satisfied that by the publication of this book, the Indigo-planters as members of the Landholders and British Association, as a class of persons, were degraded and treated with contempt. I will now come to the great question involved. Gentlemen, you have to determine by your verdict, not only that this is a libel, but also from the circumstances connected with its publication, that malice could be shown. In justice to the defendant I will express myself clearly on that point. Lord Mansfield in an indictment in the case of the *King vs. Woodfall* which was for libel—and I must say that this prosecution has assumed that character—clearly laid down the law.

And then the great champion for the liberty of the press Mr. Erskine, writes also on the same subject.

I will explain what he means, and what forms part of his judgment. Where an act is unlawful, unless proof of justification or excuse is shown, the criminal intention is implied. Now it must be shown in this case, that there is an absence of entire malice showing that Mr. Long was actuated by an honest and conscientious belief, that the act he was doing, was for the interest of society, and though however gross the libel may be, these are circumstances which ought to be taken into consideration, namely how far he was influenced by publishing that book. On the other hand, you have to consider how far the extracts referred to by Mr. Peterson, go to negative that assumption, namely that he acted with a honest and *bonafide* belief, that the publication would benefit society. Whatever evidence of malice was to be seen from the book itself, that without the evidence of express malice,

the charge must fall to the ground. The question would be entirely whether he was influenced by such a feeling or not. If I am wrong, gentlemen, either of the learned counsel, who appear in this case, could take my opinion or judgment elsewhere. That being the case the important question involved is this and I told you that it referred to the press itself. Mr. Peterson has told you that until the passing of Fox's Act, the Judge and the jury were pulling in contrary directions. The Judge annihilating the jury, and the jury disgusted and alienated, until the Act was passed. The trial of the Dean of St. Asaph led to that alteration of the law, and a declaratory Act was passed which I could contend for as the law of the land, and a greater boon has not been conferred than by this change of the law. But after the passing of that Act, no attempt has been made to alter it, and in the cases tried subsequently no point was ever raised to question its validity. Lord Mansfield had a right to give that opinion, that it was better to leave the question of libel or no libel with the jury and this case, gentlemen, will be left to you and to you alone, without an expression one way or the other, falling from me.

I will now come to the position of things in England as to what is considered really fair and legitimate discussion, or what in other words you are to attack and what you are not to attack, and that is the liberties of the press. I will read the opinions of the authorities immediately bearing on the case. It will be no opinion of mine but of far greater men, those who never sat in this Court. I told you of the case of the Dean of St. Aspah and a remarkable circumstance then took place. The Judge who was Mr. Jones, published a dialogue supposed to be the scholar of the Dean of St. Asaph and just as that libel was being published, he was promoted to the bench and was sent down to India and the dialogue published was very strong in its terms and Mr. Erskine commented in that case. He says :—

"We will therefore maintain and assert by all legal means, this sound and essential privilege, the point and ground of every other. We will maintain and assert the right of instructing our fellow subjects with every sound and conscientious consideration, which may promote the public papers, and while we render obedience to Government and to law, we remember at the same time, that as they exist by the people's consent and for the people's benefit, they have a right to exercise their power to watch over their due execution and to preserve the beautiful structure, by pointing out as they arise, their defects and corruption, which the hand of time never fails to spread over the wisest of human institutions.

And then in a more recent case where the principle was contended for, was in the case of the *King vs. Thomas Payne* and this was the proposition contended for and which was always upheld. He says :—

[His Lordship here read an extract.]

Then followed the law laid down by Lord Mansfield in the case of libel :—

"Where an act, in itself independent, becomes criminal when done with a particular intent, then the intent must be proved and found. But where the act in itself is unlawful as in the case of a libel, the proof of justification or excuse lies in the defendant, and in failure thereof, the law implies a criminal intent. Most luminously expressed to consider the sentence, namely that when a man publishes a libel and has nothing to say for himself, in explanation or exculpation, a criminal intent need not be proved, it is an inference of common sense, not of law. But the publication of a libel does exclusively show criminal intent, but it is an implication of law in failure of the defendant's proof. Lord Mansfield in the same case expresses himself further :— There may be cases where the publication may be justified or excused as lawful or innocent, for no act which is lawful or innocent, for no act which is not criminal, though the paper be a libel, can amount to such a publication of which a defendant ought to be found guilty.

Supposing that the book be a libel reflecting on the planters, but if Mr. Long was actuated by a *bon fide* and conscientious belief as put by Mr. Eglinton, not to reflect on the opinions of the natives, contending that he did so for the public welfare and interest of society, it is for you to say whether there is any malice or not by the mode of its publication and other ciscumstances taken in connection. But if as put forth by the learned counsel for the prosecution, the native community were entirely to blame, and if even the hundredth part of the charges they put forward were true, and that Mr. Long was a mere tool and machinery in their hands, that would be no justification whatever. It must be his own conscientious belief whether this book was for the interest of society at large or not. Why, gentlemen, I ask you, how is corruption to be attacked ? How are classes of men who abuse the power vested in them to be attacked unless it is through the liberty of the press and freedom of discussion ? I rejoice and I do feel the power and importance of a press ; to watch over the acts of public men, to keep a vigilant eye over their doings and I must say I had a fair sample of it myself. If a Judge was not doing his duty the press should be set in motion and it will do him good. And if he were unjustly assailed he would with the assistance of public opinion put it down. If attacked unjustly, and very great allowance is made for it,—there is an appeal to public opinion and to that public opinion the papers must bow. That being the case, the question would be did not Mr. Long conscientiously believe at the time he published the work, that the course he was taking was for the interests of society. Gentlemen, I am certain you will not invade that strong constitutional principle, but you must look to the circumstances under which it has been published. It is a question which concerns the whole population. It is a principle held by all, and the papers would rely on it and they have the deepest interest beyond all society. I would well have been spared this labour and I wish to particularly impress upon you this principle because it is all important. I will now go through the contents of this document and I will do it as rapidly as I can. The indictment contains no less than twelve distinct charges of acts done

by Indigo-planters of Lower Bengal and I have marked the passages referring to each particular point. The first charge made, is one of oppression, and you will find in page 6 of the book, there is a passage which has been relied on by Mr. Peterson, as a serious charge against the Indigo-planters, and I wlll call your attention to the most important part, the author's preface. The first is in page 7 and also in pages 12 and 13; (after referring to the several passages his Lordship went on to say). I now come to page—? and I must say, that I approach this passage with pain and sorrow. Although the views I entertain on the large question, I have put to you, but I must say that when I read this passage I dropped the book, with a feeling of disgust and horror, and I thought the Reverend gentleman might have at least spared us the affliction. I wonder that the clergy of England could have read in that book, the foul and filthy libel, which it contains against the females of England. I myself, as all of you, have sprung from the middle class of society, that class which has done more for the interests of society than any other, and these women, who come out here to share the toil and isolation, and the miseries, they have to undergo. These women, high minded, gentle, ready to go to be transported for a certain number of years, these are the women,—and I see there are natives here who would blush to read this foul calumny—who are charged with doing that, which no man of principle, I say, would ever have attempted to charge them with. I blush, that the defendant, a clergyman of the Established Church, should have so far forgotten himself, as to give publicity to this foul libel, against the women of England. What is the charge. But I say nothing of that great body of men the civil servants, many of whom are my personal friends, and the Indigo-planters. I have never given an opinion respecting the Indigo system, I have no feelings whatever in the matter; I am a Judge. Can any body read this foul calumny as to the state of the English ladies in the Mofussil, without being horrified. They had been treated cruelly, and in a manner, beyond description. If they found necessary to attack the Indigo planter, they might have spared his wife, but this foul calumny does not concern the planters alone, the Magistrates, who are to administer justice in the Mofussil, those high minded gentlemen, who lead the life, I may say, of a hermit,—they have also been attacked. It was clearly insinuated, and it was useless to attempt to conceal it, that the Indigo-planters would even prostitute his wife to gain an advantage over the ryot, and the Magistrate, who had taken his oath to administer the law partially and justly, would break that solemn promise. When you come to consider this passage, and I don't want to excite or carry your sympathies for the parties maligned, but I ask you--Is a publication of that kind to proceed from a clergyman of England—and I must say that it is a circumstance, which goes far to rebut that assumption, that he did it with a firm conviction, namely for the interests of society. Could the defendant, who is a man of intelligence and education, have believed that this filthy insinuation, that the wife of the planter had prostituted herself, would have benefitted the public? How far can he believe, that imputation, would have brought about

a reformation, or thrown some light on the subject. Speak of factories being burnt down, speak of tortures, even go to the abduction of the women : I thought a clergyman would have spared the reflection, that the women, who come out here to suffer with their husbands, the toils and hardships of an Indian climate, had prostituted themselves. Gentlemen here it is that the worst part of the case lies, I can't, if I were to wish it, pass it over. (His Lordship here read the passage referred.) What does that mean ? Does it not mean, that the Magistrate carries on an illicit intercourse with the wife of his neighbour, and in violation of his oath, and on the face of the high position, he occupies ; that he is living with the wife of a planter, and that as a consequence, he was influenced in his decisions between the planter and the ryot ? If you can point any other constructions, no one will rejoice more than I do, but see what follows ; (His Lordship here read another passage) I will ask—Is this book to go forth to the world, to the mothers and daughters of the middle classes of society ? Is this to be the fate of their daughters ? It is a charge, gentlemen, against every European in the country, be he planter, civilian, or soldier, and I am certain every one will agree with me, that such a charge should never reach the ears of the English people. To whom was this charge to go before. I asked Mr. Lushington, whether the list which I have before me, was such a list ever before been received by the Bengal Office, which illustrated the manners and the literature of the natives, and the answer he gave, was No Now this was very material, because it showed the kind and extent of publicity, it was desired to give it. (His Lordship here read the names in the list) And gentlemen, these are the parties, a writing of this kind, was to be circulated. A man has a perfect right to do this, and don't misunderstand me. He has a right to communicate any document, to Government, but he must not publish it. If Mr. Long felt that the interests of society required it, that the oppression of the planters should be made public, and he was induced by that belief, the question would be, as I have more than once repeated, whether he was actuated by that feeling. You can't question the document which I hold on this Bench. The great question of constitution justifies the act, such is the doctrine recognised by the British nation, and which Mr. Eglinton had so ably put to you, namely the liberty of the press ; but at the same time that privilege must not be abused. I would read to you Stephen's Commentaries, and you would see, how it is defended there. He says :—"But our limit in this and in many other respects, corresponds rather with the middle age of Roman Jurists, when little learning and humanity were in their full vigour, and exhibited a moderation sufficient to protect it, from any imputation of infringing the liberties of the press. This liberty, when rightly understood, consists in laying no possible restraint upon publications, and, not in freedom of free circulation of criminal matter ,when published. Every freeman has an undoubted right to lay what sentiments he pleases before the public ; to forbid this, is to destroy the freedom of the press ; but if he published what is improper, mischievous or illegal, he must take the consequences of his own temerity. To subject the press

to the restriction, as was formerly done, both before and since the Revolution, is to submit all freedom of sense, to the prejudice of one man, and make him the arbitrary and infallible Judge of all controverted points, in learning, religion and God ; but to punish, as the law does at present, any dangerous or offensive writing, which when published, shall on a fair and impartial trial be adjudged to be of a pernicious tendency—which is necessary for the preservation of peace and good order of Government and religion—is the only solid foundation of civil liberty."

Therefore the liberty when rightly understood, is a criminal matter. As I told you before, the expressions and charges, must be such as justified him in making use of them. You have heard the extracts read by Mr. Peterson, and you must form your own conclusions. I may have in the discharge of my duty made observations, which may not find favor here. Men's feelings might get better of their judgments. Men may not be inclined to grapple with the question as I thought fit. My observation may be treated indifferently but I don't care. It shall never be said that this great constitutional question, the freedom of the press, had been flittered away by me and that I did not fully recognize that principle. And again you have to look to the conduct of the defendant ; I have heard no apology, I have not heard single expression of regret. Mr. Eglinton had not stated what passages in the pamphlet the defendant approved of, and what he did not, and it must therefore be taken for, that he approved of the whole. The defendant through his Counsel ought to have at least disavowed, that the gentlemen were not capable of committing the crimes imputed to them in that book. It will be your duty, gentlemen, to say under all the circumstances, whether the prisoner is guilty of the charges mentioned in the two counts.

The Jury then retired to consider their verdict.

After an absence of about an hour and a half, they returned to Court, to enquire of the Presiding Judge, whether assuming that the defendant believed the statements in the pamphlet to be true, it would be necessary to be shewn, that he was actuated by malice in the publication, before he could be found guilty.

His Lordship—said, if they believed, that the defendant had published and circulated, the book in question, for the interests of society, and that he conscientiously believed, that the publications of such a book would tend to bring about a reform of the indigo system, and was acting in a *bonafide* manner, he would be entitled to a verdict of acquittal. If on the other hand, they were satisfied from the contents of the book, and the manner of publication and circulation, that the defendant had been actuated by a feeling of animosity towards the planters of Lower Bengal, with the view of degrading, injuring, and bringing this class into contempt and ridicule, in that case the law would infer malice, on the part of the defendant, and the verdict must be guilty.

The jury upon this retired a second time, and on coming into Court, returned a verdict of guilty on both counts.

Mr. Eglinton represented that judgment, might not be given, until the expiration of the four days, within which a new trial might be moved for, as the defendant might be desirous of moving in arrest of judgment.

His Lordship—said, it was not his intention to pass sentence then. But it was usual to assign some ground, at the time in support of the application. What was the suggestion on which the motion was made?

Mr. Eglinton—said he was not prepared with any ground and did not know that such motion would be made, but he merely asked for time to consider the matter.

His Lordship—said, he saw no reasons for allowing a delay of four days, but would reserve the sentence until Monday morning the 22nd instant, when any application might be brought forward.

Third day—July 22nd 1861.



(BEFORE A FULL BENCH.)

Sir Mordaunt Wells—asked Mr. Eglinton whether he intended to move in arrest of judgment, and for a new trial.

Mr. Eglinton—replied that such was his intention on last Saturday, but it had been determined that he should apply to the court for an extension of time. He believed, he had a right to four days, and he was not prepared to go into the argument just now; he would ask the Court to defer passing sentence till Wednesday.

His Lordship—wished to know if the learned counsel had any other grounds to state, in arrest of judgment.

Mr. Eglinton—said he simply relied upon a misdirection to the jury, and he might also state that it was not his intention to meve for a new trial.

His Lordship—thought if it was Mr Eglinton's intention to move for a new trial, he must go into evidence.

Mr. Eglinton—said, he would not apply for a new trial but certainly he would move in arrest of judgment.

The case was accordingly adjourned till Wednesday the 24th instant.

Fourth day—July 24th, 1861.

(BEFORE A FULL BENCH.)

MR. JUSTICE WELLS—asked if any motion was to be made in this case

MR. EGLINTON—said that he appeared for the defendant, and that he moved in arrest of judgment upon the verdict delivered on Saturday last. The general ground upon which he moved was, that the indictment on the face of it disclosed no legal offence. There were two counts. The first was for an alleged libel on Mr. Brett personally, and on him as the editor of the *Englishman* news-paper. The legal definition of a libel was well known, and having regard to the passage, in the author's preface of the *Nil-Darpan,* relied on by the prosecution, it was not a libel in law. At most it imputed to the editor of the *Englishman,* that he wrote in favour of the interests of the Indigo-planters of Bengal, for fee and reward in that behalf, an imputation which was not libellous, in as much as, it was the admitted practice in every civilized community, where every profession, every political state of feeling, every religious body, every phase of society had its own organ, which it supported, and whose aim was to advance the interest of the opinions it represented. As to the remainder of the passages relied on, the reasonable construction of the language used, was to create, not a comparison with Judas Iscariot as stated by the prosecution, but an *illustration* merely of the writer. The Court was bound to look at the words as used, and to construe them in their ordinary grammatical sense. As to the second count, the learned counsel submitted that no indictment could be preferred on the basis, of a body such as the Indigo-planters of Lower Bengal, being libelled. The body in question, was too indefinite, too vague to support such an indictment, and the authorities which Mr. Justice Wells referred to, at the trial (and which the learned Counsel referred to at great length) did not support the position, that such an indictment as the present could be supported. As to others of the passages, (which the Counsel commented upon) they did not impute any improper interference by the planters, with the administration of justice in the mofussil, and the passages relied on, and the suggestions arising upon them, and stated by the learned Judge in his charge to the jury on Saturday, were in no way warranted by the passages themselves. Those passages must be read with reference to the native ideas, which prompted their production, and when so understood, they in no way raised the inference, which had been suggested with reference to them. On the whole, the indictment set forth no legal offence and the judgment ought to be arrested.

MR. NEWMARCH—as junior Counsel, follwed Mr. Eglinton and contended that if the principle, that the planters could be considered as a recognized class or body, was once conceded, it would establish a very dangerous precedent, and in point of fact, it would be recognising a doctrine, that a libel could be mentioned on the whole of mankind. The planters were not a defined body. An action for libel might be on the

same principle, against a person, who should say that the natives were an untrustworthy race and could not be beliveed.

THE CHIEF JUSTICE (SIR BARNES PEACOCK)—said, This is a motion in arrest of judgment, and the Court has been called upon to overrule the finding of the jury, which was that the defendant was guilty of the offence on both counts. The general ground upon which the motion is made, is that the indictment disclosed no legal offence. The jury have found a verdict of guilty on both counts, which implies that the statements published were malicious, and I understand by that finding, the conc usion the jury have come to, is this, that the defendant did not show reasonable or lawful justification for publishing the alleged libel. If a man wilfully does an act, by which he subjects any party to disgrace and obloquy in point of law, he is guilty of libel. In Mr. Starkie's work, it is laid down, and I have no doubt that the principle is correct, that malice in its legal and technical sense, denotes that the party publishing the libel,intended to degrade, unless he could prove he was not actuated by malice. The jury by their verdict have found malice. At the same time, a man may publish a libel against another, which may not amount to an indictable offence, because there may be circumstances for reasonable excuse or justification. A person may be asked to give his servant a character, and he may honestly and *bona fide* give him a character which, though it might be injurious to that party, still would not be an indictable offence. The circumstances, under which it was given and communicated to a third person, would be such, as to rebut the intention of malice. But if a person giving a character to a servant, states that which is false, he would not be able to rebut the imputation of malice. Further, if such a letter giving a character to a servant was published, and the jury found that the letter was written maliciously, and was a libel, the Court could not be called upon to say whether the letter was a malicious libel or not. That matter was found by the jury on the facts, and the Court could only deal with a question of law.

The first count states that "James Long intending to villify the said Walter Brett &c. &c." (His Lordship here read a portion of the indictment). The material statement, upon which the jury found a verdict, was the malicious intent, that is, it was an improper intent, and not justified by any reasonable or proper excuse. Then it is contended, that however wrong the intention of the party may have been in publishing the pamphlet, still the words in it, do not contain any imputation against the parties, and therfore could not be made the subject of an indictment. The question is what does the libel impute? It was argued, that the business of an editor of a news-paper, was to write for gain as every other man, who worked for his livelihood; and he wrote for particular interests. Most men are forced to write to earn their livelihood. But at the same time, they are bound to be honest and just, and to say that an aditor, writes and endeavours to advocate the interests of a particular class or society, for the sake of pecuniary gain, and dishonestly to advocate the interests of any class to the detriment of another,

would be a libel. It has been said that every editor, like any other individual, exercises his particular calling for the sake of gain. How does this libel impute to Mr. Brett and the editor of the *Harkaru*, of having advocated a particular interest. Does it impute to them that, that they did so to earn a livelihood, or that they had been induced by some extraordinary reward to write up some particular interest? That is the imputation in the libel. The pamphlet says:—"I present the Indigo-planter's mirror to the Indigo-planter's hands; now let every one of them, having observed his face erase the freckle of the stain of selfishness from his forehead and in its stead, place on it the sandal powder of beneficence, than shall I think my labour successful, good fortune for the helpless ryots, and preservation of England's honor." This certainly appears to me to represent to the Indigo-planters, that if they looked into this paper, they would see true representation each of himself. Is this not reflection on a certain class? Each of them was to look at it to find his own picture. Then it goes on to say:—"Oh, ye Indigo-planters your malevolent conduct has brought stain upon the English nation &c. &c." Are we to say that this is not an imputation? Why, it is a serious charge against the character of individuals, and that is the sense which ordinary reader would read it. Then it goes on to speak of the editors of the two papers. Now can any ordinary person, reading that passage come to any other conclusion than that, it intended to impute to them that, they had been so far enslaved by the hope of receiving money, to write up the Indigo interest; and the Indigo-planters were aware of that, and that they the editors threw the poor helpless people of this land into their (the planters') mouths. It is a libel or is not a libel, to say that they had been enslaved by, this particular conduct to avocate the Indigo interest? It appears to me that it is a very grave charge; although they like any other person wrote for gain, still from the way it had been put, that he obtained the money for a particular purpose, namely, for supporting the Indigo interest, it appears to me, that there is no mode by which we can put a different construction than that, given by the jury, that the editors of those papers had been influenced, by a sum of money, to advocate the cause of the planter to the prejudice of the ryots.

Well the next question is, as to the second count. It is contended—as I understand the argument,—that because the publication is against a class of individuals, that, that class is not sufficiently described, and that there ought to be some precise definition, or in other words, that the class is not defined as a recognised body by law. Now it appears to me wholly unnecessary, to state the numbers of the class. Supposing a person libelled the army, would it not be sufficient to say that the army was so libelled. That the charges brought against it, were calculated to bring discredit upon it. It is unnecessary to state more. Can any one doubt that the second count refers to two classes, namely, the manufactures of the Indigo-plant and the ryots, who cultivated it? It appears to me perfectly clear, that this indictment does shew that the classes

mentioned are those, I have just stated. And then the indictment goes on:- -"In consequence &c. &c." Therefore, I think that it sufficiently appears, according to the verdict found by the jury—that the two classes of persons were in existence at the time of the publication; *viz.*, the Indigo-planters and the ryots; and that serious disturbance arose between them; and therefore it states -"that the said James Long intending thereby to villify &c. &c. (His Lordship here read a portion of the indictment.) Cases were cited to show that the class was too indefinite. Now I don't know that the class could be better defined than it has been. I don't know how it could be defined more minutely. It is not an action brought against one planter, —that he was the person alluded to. It is sufficient to say, that he and others of his class, were alluded to. Then the case of the Jews has been cited. That was an information prayed for, against the act of a person, who published about the murder of a child by certain Jews, because the child was begotten by a Christian. Now it appears to me that the statement that certain Jews, who had lately arrived from Portugal and were living in Broad Street, were the murderers, was establishing an identity, precisely in the same way as the Indigo-planters of Lower Bengal. The only difference appears to be, that Broad Street is a much smaller place compared to that part of Lower Bengal, where the Planters resided several miles from each other, but I maintain the principle is the same. The question is—Are we in a position to suppose, that any person reading this pamphlet, and having found therein the statement that disturbances had arisen between the two classes, could arrive at a different conclusion from that come to by the jury. Unless we, on reading the libel, put quite an unusual construction on the meaning of the passages, we could not by any possibility say, that it was not the planters of Lower Bengal that were alluded to in the publication. It has been cited, that the case of the clergy of the Diocese of Durham was a class known to the law. Now I don't think that makes any difference. Supposing the clergy of Durham, or the whole clergy of India were libelled, it would make no difference. No one could say, that that class was not sufficiently described. Supposing it was the whole clergy in India or the whole clergy residing in Bengal, won't that be sufficiently clear or definite? I think the law has very wisely provided, that Her Majesty's subjects ought to be protected. Therefore a libel, against a class unknown, as it had been forcibly urged, is on quite a different principle. If a libel were so written, that the parties against whom it was written, were unknown, and it was so general and so vague in its terms, that parties reading it, found it impossible to say, who was meant, that would be quite another thing. But when a person reading a publication supposed to be libellous, says "I know who this refers to, it refers to the Indigo-planters of Lower Bengal," and all ordinary persons reading it, were of the same opinion, what else is wanted. Another case, that of the *King vs. Williams* had also been cited. Well that is the same case as I was telling you of the Diocese of Durham. Then came the case of the

King vs. Furdett, which refers to a libel published against the King's troops. That was not a libel against the whole of the troops, but only against a certain portion. The question was what portion it referred to, as only a portion, took part in the suppression of an affray which formed the subject of the libel. If it said the whole troops, then it would be sufficient to say, that the portion alluded to, was that which was sent out to quell the disturbance. In that case it was said, that the troops who were employed to put down the riot at Manchester, had been guilty of great inhumanity, and had been cutting down the mob, and that the writer, intending to villify the soldiers, did write and so forth. The jury found that the libel did apply to that portion of the troops, and it was consequently sufficiently defined and described.

Then a note from Swanston's reports was also cited. I don't think that affects this case, as it merely referred to the case of the Jews. Then as to the case *King vs. Jenna*, where it is shown, that a libel upon a number of people reflected upon the whole. Let us see whether this pamphlet would not apply to the whole of the Indigo-planters of Lower Bengal. It says, "I present the Indigo-planting mirror to the Indigo-planters' hands; now having observed his face, erase the freckle of stain of selfishness from his forehead &c., &c." Then if you look at this paper, you would surely say that is a libel against every one of that class, because it tells them to look into this mirror and erase the freckle of the stain of selfishness and so on. Then the case *King vs Evans* was also cited. That related to a libel against certain Magistrates, and it was held not to be libel. No doubt in that libel some of the inuendoes were not set forth. But it won't be safe to rely on that case in any way, because it did not refer to any authority upon which the principle was now put. Then in the case of the *King vs.*———, which was a libel against one of the Court of Directors, who was charged with having used some improper influence on the shippers of tea, by which the price of green tea was raised. It was held in that case, that the libel reflected on the whole body of the Court of Directors. Now I think that sufficient cases have been cited to show, that according to Law, a class may be vilified. Another case, which was cited by me was that of *Lafano* and *Malcomson*, decided by the highest authority. That applied only to this extent. If any individual class applies to maintain an action of damages for libel, and unless that class of persons were in partnership they can't sue for damages. Each one can't come here separately to sue for damages. It is unnecessary to decide in this case, which of the Indigo-planters was alluded to, in this publication, because every one of them is asked to look into the Mirror. If any one of them could say—"I am one of the men alluded to and I have hereby suffered damages which I wish to recover, that would be sufficient, but is the Court to be inundated with suits of that kind? The Lord Chancellor in delivering his judgment in that case, which is peculiarly applicable to this, ruled that a particular class can be ascertained.

(His Lordship here read the authority) and Lord Campbell, the late Lord Chancellor concurred in that view. That case goes to show, that a class may be libelled, or any particular individual may seek to recover damages, which he may have suffered by a libel. Then comes the question as to the class itself. Is this Court as I have remarked, to be inundated with suits from each individual member of that class? Has not the class itself a right to be protected in a criminal prosecution, to obviate the necessity of each party suing separately? I therefore think the class has been sufficiently described. The only remaining question is, as to the libel bringing the parties themselves into disrepute and discredit.

Now the second count, found by the jury is, that the publication was intentional, that is it was malicious, written and published for the purpose of lowering them in the estimation of the public and society. (His Lordship here read an extract from the publication). Does this not show that the Indigo-planters as a body, had exercised an improper influence over the Magistrates to induce them to give decision contrary to law? Now what would be supposed if one of the Judges of this Court was said to have acted in that way. It appears to me, that this passage is sufficient to support either of the two allegations, and to be capable of such an interpretation, as to bring the planters into disrepute. Mr. Eglinton, I think has scarcely argued in respect to the first part of this allegation, whether the words in this libel were sufficient to cast an imputation on the whole body of the planters. And it is not necessary for the Court to say, whether the words are sufficient to bring the planters into discredit. Now the first part of this libel has been referred to by Mr Eglinton as being obscure. It is set out in page 66 of the pamphlet and I will read it.

"*Darogah.*—Did not the Magistrate say he will come here this day.

Jemader.—No sir, he has four days more to come. At Sachigunge on Saturday, they have a Champagne-party and ladies' dance. Mrs. Wood can never dance with any other but our Saheb, I saw that when I was bearer. Mrs. Wood is very kind, through the influence of one letter, she got me *jamadary* of the jail."

That is, the wife of Mr. Wood, and through her influence the bearer got the *jamadaryship* of the Jail, and the Magistrate was the only person with whom she would dance, and that in consequence of the Champagne-party, probably the Magistrate would not come. Now whether this would lead fairly to the inference, that Mrs. Wood would improperly influence the Magistrate, is a question which the jury have already decided. Mrs. Wood is the character in the play, and is described as the wife of an Indigo-planter. But it is said that this does not mean a planter's wife, and still he is asked to look into this mirror and see his reflection. It must therefore be taken, that it is one of the Indigo-planters, and that it means to impute a general course of conduct of the whole body, and that they did by

such means exercise an undue influence over the Magistrates of the districts. In my opinion it is incapable of bearing any other interpretation. Supposing it was published that, the Judges of this court had when a suit was pending, received such a letter from one of the litigant parties, would it not be said that an improper influence had been exercised over them? Are not Magistrates in the country entitled to the same protection as this Court? It appears to me that it is doing as great an injustice to the Indigo-planters, to say that they used an improper influenec over the Magistrates, through their wives, as it would be to say that the Judges of this Court had while suits were pending, received such a letter from one of the litigant parties. Then the question is, whether there is anything in the libel, to show that any imputation, independent of that influence, over the Magistrates, had been cast to bring into contempt the administration of Justice in the mofussil It is unnecessary to read the whole pamphlet to prove this. The learned Counsel for the defence had contended that the words used in the pamphlet, are not capable of receiving such an interpretation, and if any point is capable of receiving such an interpretation, it must be read and construed in the same way, as any ordinary reader would. I don't say the jury were right, or that they were wrong, in the conclusion they have come to. The pamphlet having been published with certain meanings, attached to it, we are called upon to say, that in point of law this libel is not capable of receiving such an interpretation The whole of the passages in this book have not been relied on, but a great number of them were selected, and upon them a great number of inuendoes set out. If the jury found the interpretation of that particular conduct, which the inuendoes aver, how can we be called upon to say that no part of it bears that interpretation. The Court reading a libel, must look at it, in the same way, as any ordinary reader, and unless the Court could say that the words cannot bear the interpretation put upon them by the jury, and that the part cannot be read in that particular sense, the verdict cannot be set aside. All we have to say, is that the jury having come to that conclusion, we must see whether the words are capable of bearing that interpretation.

I shall read one more passage which is in page 101. It says—

"The *cobra de capello*, like the Indigo-planters, with mouths full of poison, throw all happiness into the flame of fire. The father through injustice. died in the prison, the elder brother in the Indigo-field, and the mother being insane through grief for her husband and son, murdered with her own hands, a most honest woman. Getting her understanding again, and observing my sorrow, the ocean of grief again swelled in her. With that disease of sorrow, came the poison of want, and without attending to consolation, she also departed this life."

It appears to us that reading the whole of this passage and others set out in the indictment, the construction put by the jury is a correct one. We also find that they had been published with malice, that is

that defendant was not actuated in the publication, with a conscientious and *bona fide* belief, that it was for the good of society. That being the finding of the jury, it is impossible for us to say, that the publication is not a libel.

MR. JUSTICE WELLS—asked Mr. Long if he had any thing to say in mitigation of punishment.

Mr. LONG—said, he had a statement to make, which he would, with the permission of the Court, read:—

My Lord, as the result of this trial involves consequences extending far beyond the sphere of Calcutta, or even of India, I beg to submit, for your Lordship's consideration, the following points referring mainly to the motives which actuated me in publishing the *Nil Darpan.*

Tried by the mode of a criminal prosecution, in Court, I had no opportunity to make a personal statement to the Jury. I can only, previous to your passing sentence, mention what is personal to myself, as to the motives, which actuated me to publish the *Nil Darpan*, on the grounds of my being a Missionary, an expounder of native feeling as expressed in the Native press, a friend to securing peace for Europeans in the country, and a friend to the social elevation of the natives.

My Lord, it is now more than twenty years since I came to India. During that period, I have never appeared in a Court of Justice, as a plaintiff or defendant; my occupations have been of a very different character, and my time has been spent chiefly among natives, engaged in vernacular teaching, in the charge of a body of Native Christians, and in the promotion of Christian vernacular literature. These pursuits, along with my interest in the rural population, called my attention to the vernacular press of India, its uses and defects, as well as its being an exponent of the native mind and feeling. It is in connection with the latter branch of my labours, that I appear here to-day as publisher of the *Nil Darpan*, which I edited with the view of informing Europeans of influence, of its contents, as giving native popular opinion on the Indigo question. This work, (the English translation I mean) was not got up at the suggestion of natives or even with their knowledge, and was not circulated among them. It was commenced, at the request of others. Many of the remarks of Mr. Peterson the Counsel for the prosecution, are strongly in my favor, because if, as he stated, the work was so injurious in its vernacular dress, was I not doing a public service by making such a work known in English? Not in Calcutta, where it might only lead to more bitter controversy, and where men's interests are so near concerned that all representations would have been useless, producing irritation, not conviction, I circulated it, chiefly among men of influence, and those connected with the British legislature, which to the oppressed of whatever color or country, has always afforded sympathy and redress. I have aimed for the last ten years in my leisure hours, to be an exponent of natives, opinion, in its

bearing on the spiritual, social and intellectual welfare of natives of this land; as for instance, when applied to, on the part of the Court of Directors seven years ago, to procure for their Library, copies of all original works in Bengali or as when, lately I sent to Oxford, by request, copies of all Bengali translations from the Sanskrit; or when I have procured for Missionaries, Government, Rajas, &c., vernacular books of all kinds. I should have been a strange person, indeed, had my opinions harmonised with all the chaos of opinion in those various publication. Why! at the request of Missionaries I have procured Anti-Christian works for them, as they wished to know what was written against Christianity.

I am charged with slandering English women in the *Nil Darpan*. Now, waiving the point, that it is only planters' wives the native author refers to—I myself believe planters' wives are as chaste as any other females of English Society in India, and it was my impression that the author only referred to some exceptional cases, not giving them as specimen of a class of females. The view that I and others, who know oriental life, have taken of this part, relating to females, is, it gives the Eastern notion of the high indelicacy of any woman, who exposes her face in public, or rides out in company with a gentleman, I have heard such remarks made, of my own wife; but I treated them as a specimen of village ignorance. Sir F. Shore in his "Notes on Indian affairs," states instances of a similar kind, and Lieutenant Burton, who went disguised as a pilgrim to Mecca, mentions the greatest reproach, the pilgrims there made against the English was, that they shook hands with their neighbours' wives! I regret, however, I did not append a note of explanation to this part.

I hold in my hand the first drama ever translated, and that by an illustrious Judge of this Court—Sir W. Jones, in order to give a view of Hindu Society. Similar service was rendered by Horace H. Wilson, by Dr. Taylor, and various other persons. I beg to say, I was far from wishing to vilify planters generally, though from sincere conviction and enquiry, opposed to the system. Thus when summoned before the Indigo commission, my evidence here was considered, even by the planters' friends as moderate and free from invective. I was elected a member, of a Subcommittee of the Calcutta Missionary conference, to watch the progress of the Indigo controversy, and it was never objected then, that any of my actions in connection with this conference on this subject, were for the purpose of vilifying. I have never lived near planters, nor have I had any personal altercation with them that would lead me to a vindictive course.

I ask, when hundreds, yea, thousands of Bengali books were submitted by me, during the last ten years, to the notice of Europeans of influence, was the *Nil Darpan* to be the only exception? And wherefore? The ryot was a dumb animal who did not know his ruler's language. And at the time of this *Nil Darpan* appearing, matters on the Indigo controversy were assuming threatening aspect; so it was important, that men of the influence should know that the

wound was not a surface one, but required deep probing. Could I as a clergyman have withheld, a work of this sort, which indicated some of the causes of the deep seated aversion of Ryots to Indigo cultivation? This work, the *Nil Darpan* was sent to me, as hundreds of vernacular books have been, because it is known in many quarters that I take a deep interest in Vernacular literature. Here is an illustration: these two vernacular books were sent to me a few days ago from Benares—One Robinson Crusoe, in Hindi, the other a Choral Book in Urdu. Almost every week I receive new vernacular books and I make a point of bringing them to the notice of Europeans on various grounds. Sir F. Halliday honored my "Reports on the Vernacular Press" by publishing them; so did the present Government, in the case of publishing my Sketeh of Vernacular Literature; so did the Vernacular Literature, Religious Tract Society, Christian Tract and Book Society, shew their confidence in publishing various work of mine.

I will now state the grounds, why as a clergyman opposed to war, I published the *Nil Darpan*. My Lord, four years only have elapsed, since Calcutta was waiting in termbling anxiety for the result of the mutiny. Few could look with calmness on the future, while watch and ward were kept all night by the citizens. Many felt then, as I had long felt before, how unsafe it was for the English, to reside in India in ignorance of and indifference to the current of Native feeling. The mutiny, in common with the Afghan war, has showed that the English in India were generally unacquainted with it; so a short time previous to the mutiny, the Sonthal war burst out unexpectedly to the public. For a long period, Thuggee and torture were prevailing in India, without the English knowing any thing of them. Had I, as a missionary, previous to the mutiny, been able to submit to men of influence, a native drama which would have thrown light on the views of sepoys and Native chiefs, how valuable, might the circulation of such a drama, have proved although it might have censured, severely, the treatment of Natives by Europeans; the indifference of sepoy officers, generally towards their men; and the policy of Government to Native states Such a drama might have helped to save millions of money, and torrents of human blood. In Kabul, the Authorities, through a false security founded on ignorance of native opinion, entailed a loss of fifteen millions sterling, on the State and damage of England's prestige. Has Calcutta forgot the lessons taught by the mutiny? I ask, was it very malicious to reveal to the governing race, the latent current of Native thought and feeling, on the subject of Indigo, which was convulsing the whole country, and threatening it with anarchy, incendiarism, and assassination? Would I have been justified to withhold, contributing my mite at such a crisis, to the great object of, rousing men of influence, by shewing them, from a Native source, that the dissatisfaction was deep seated, and that the wound must be thoroughly probed, before healing measures could be efficacious.

My Lord, the mutiny has passed away; who knows what is in

the future? As a clergyman, and a friend to the peaceable residence of my countrymen in India, I beg to state the following, as a motive for my editing, such works as the *Nil Darpan.* I, for years have not been able to shut my eyes, to what many able men see looming in the distance. It may be distant or it may be near; but Russia and Russian influence are rapidly approaching the frontiers of India. Her influence, so manifest in Cabul twenty years ago, as shewn in a recent Parliamentary Blue Book, was beginning to be felt in India during the last mutiny; now she goes on the principle of *divide et impera*: previous to invasion, she gains over the Native population in various countries to her side. Could I, then, as a clergyman, have watched with apathy measures like those, in connection with the Indigo system, which were furthering this Russian Policy, and which might lead to war and dissensions, that would retard for a long period, the progress of religion, education and peaceful commerce I now speak merely my own honest conviction on this point, and I ask, if this conviction has any foundation in reality; as also if there be any ground for another, as deeply rooted in my mind, that mere armies can no more secure the English in India, than they established the Austrians in Italy. Was it not my duty, as a clergyman, to help the good cause of peace, by showing that the great work of peace in India, could be best secured, by the contentment of the Native population, obtainable only by listening to their complaints, as made known by the Native press and by other channels. I pass over French views in the East, but I say forewarned is forearmed, and even to the expense of wounding their feelings, in order to secure their safety, I wish to see the attention of my countrymen directed to this important subject.

As a missionary, I have a deep interest, in seeing the faults of my countrymen corrected, for after a residence of my twenty years in India, I must bear this testimony—that of all the obstacles to the spread of Christianity in India, one of the greatest, is the irreligious conduct of my own countrymen. Thousands of natives have said to me, "We Judge of the Christian religion by what your countrymen do, not by what they say; by the life, not by the doctrine"

For twenty years, I have, as a missonary, been in close and confidential intercourse with natives of all classes. Often and often has my spirit been harrowed, and almost crushed by a close view of the condition of the ryot, his wants and his sufferings; shut out from that ability to read, without which the pages of inspiration are locked up to him. I can see in the improvement of his social condition, a means of enabling him to enjoy the light of knowledge. I have circulated many pamphlets in England on "The ryot his teachers and torturers" and on the evils, resulting from the ryots, not having a sound vernacular education. When I have not shrunk from exposing many social evils to which the ryot is subject, I beg to submit, could I have avoided, in my position exposing his sufferings, from the indigo system?

The Chief Justice—here stopped Mr. Long, stating that the

Court were not willing to hear any thing that he had to address to them in his defence. That it was not the length of the matter, he was now leading, but its substance, they objected to as irrelevant.

*[Influential men in England have deeply sympathised with me on these points, and have said :—" you and others that expose those recesses of human suffering and degradation must let us know the results," and I have been, my Lord amongst those masses for years, and hope, as long as I live, have a brain to think and a pen to write, to advocate the social elevation of the masses, as incidental with the progress of mental and moral light. Should I not have been a traitor to the religion, I professed, whose great founder's motto is, "The poor have the Gospel preached to them"—had I not availed myself of all legitimate opportunity, to bring the wants and sufferings of the ryots, and the feelings and views of natives generally, to the notice of men, who had the power of remedying them? It may be called too political a course, as some now unduly restrict that term; but Christianity itself is political in the extended sense; far in the early ages, it assailed the slavery of the Roman Empire; in the middle ages, it afforded an asylum to the serfs, against the oppressions of the feudal chiefs; at the period of the Reformation, it brought freedom to the peasant's home; and in mordern days it has abolished slavery in the West Indes; it has protested against American Slavery, and is now throwing its mantle of protection round the aboriginal tribes throughout the world. In 1856, I delivered an address in Calcutta to the friends of Missions, on "Peasant degradration an obstacle to Gospel propagation." No one then objected to that address on the ground of its being political.

My Lord, I am sustained in this course by the convictions of, I trust, an enlightened conscience, and confidently relying on the continued sympathy of many friends, both among the Europeans and Native community, and of all in India and Great Britain, who desire to see India governed, not merely for the advantage of its fluctuating population from Europe, but for the benefit of and with considerate regard, for the feelings and interests of the 180,000,000 natives, over whom stretches the *Ægis* of the Queen and Parliament. I know I shall have the sympathy of good men, the friends of the natives, in India and in England, and of all those throughout the world who believe in the indissoluble connection of spiritual and intellectual improvement.

My Lord, a Court of Law has decided that the work is a libel; and it is my duty to submit to that verdict and to act accordingly. My conscience convicts me however of no moral offence, or any offence, deserving the language used in the charge to the jury. But I dread the effects of this precedent. This work being a libel, then the exposure of any social evil, of caste, of polygamy, of Kulin Brahminism, of the opium trade, and of any other evils which are

* The portion, within brackets, was not read in the Court, but is given here, to keep up the continuity.

supported by the interests of classes of men, may be treated as libels, too, and thus the great work of moral, social and religious reformation may be checked.]

My remarks are ended, my Lord. I beg to hand in an affidavit.

MR. LONG—put in an affidavit deposing on oath his motives for publishing the libel, and also a little pamphlet on the same subject which appeared in the *Friend of India* a few days ago.

These were read by the Clerk of the Crown at the direction of the Court.

SIR MORDAUNT WELLS—then passed sentence on the defendant as follows :—

Mr. Long, after a careful and patient investigation of the charge preferred against you, the jury returned a verdict of guilty on both counts, and the Court having refused to arrest the judgment, on the motion of your learned Counsel, it is now my painful duty to award the punishment, called for by the verdict of the jury, and after an anxious consideration of all the circumstances of the case. You have been convicted of the offence of, wilfully and maliciously libelling the proprietors of the *Englishman* and *Harkaru* newspapers, and under the second count, of libelling with the same intent, a class of persons designated as the Indigo-planters of Lower Bengal. I most earnestly, I may say most strongly and pointedly, called upon the jury to uphold and vindicate if necessary, by their verdict, the right of free discussion, and to be careful, lest by their verdict, the liberty of the Press might be endangered. In summing up the case, over over and again, I recognized and maintained the right of every man, to instruct his fellow subjects, by every sincere and conscientious communication, which may promote the public happiness, and I stated distinctly and emphatically the privilege possessed by every man, of pointing out those defects and corruptions, which exist in all human institutions. Nevertheless the jury pronounced a verdict, which I have the satisfaction of feeling, rests upon a consitutional basis, and cannot be used hereafter, against the liberty of the Press. There is not a person, who would have rejoiced, more than myself, if the jury have returned a verdict of not guitly, on the ground that they believed, you had acted conscientiously and for the interests of society, in publishing this book. I grieve to say that, that verdict could not have been given without those twelve gentlemen believing, that you had not been actuated by a feeling of animosity towards the Indigo-planters, in publishing and circulating such a gross and scandalous libel. Partly through your instrumentality, nearly three hundred libels have been circulated, and according to the evidence of Mr. Jones, who gave his evidence most properly, with the apparent sanction of the Bengal Secretariat, and at the public expense. I am bound to say, that such a proceeding is without a parallel, in the history of Government departments in England ; and as one of the Judges of the Supreme Court, it is my duty to state, and I do so most sincerely, that I trust such a transaction may never occur again in this country, as

such a proceeding must necessarily undermine that feeling of respect and confidence, which ought to exist on the part of the governed, towards those, who are placed in authority over them. I did at the trial, as I now do, scrupulously abstain from expressing any opinion, directly or indirectly, as regards the personal motives or feelings, which actuated the officers of Government, in sanctioning the circulation of this book. It is the safest plan in life, always to assume that public men, act from purpose and just motives, until the contrary is established, and it does not follow by any means, the officials who allowed the paper to be circulated, in the slightest degree acted illegally. The pamphlet was sent forth, unaccompanied by a single word of caution, or explanation, and the Indigo-planters of Lower Bengal have no means of tracing the extent of the injury, inflicted upon them by the circulation of the libel; but is there not reason, for apprehending, that certain persons in England, may have been induced to bring forward serious but groundless charges, against the Indigo-planters. It is quite impossible to realize fully the irreparable mischief, you have occasioned, by causing this libel to be circulated in England. There is one feature in the case, I cannot pass over without special notice, I mean the position, you hold in society, as a clergyman of the Church of England. I am certain, the Bishop of Calcutta, of whom it may be said, that he is respected and beloved by the entire Christian Community, will deeply lament the circumstance of one of his clergy, being convicted of libelling a large and influential body of gentlemen, scattered over a portion of his extensive diocese, and I am well assured that the great body of the clergy with few exceptions, will sympathise with their Diocesan, on the present occasion. The fact of your being a clergyman, is an aggravation of your offence, and when you state publicly in Court, that the advance of Christianity, is impeded by the irreligious conduct of many Europeans, I think such an expression of opinion on your part, when called upon to receive the sentence of the Court, for libelling many of your countrymen, is rather out of place, and perhaps the great majority of the Europeans, may think that your conduct has not done much to promote real practical Christianity. You, of all men, ought to have inculcated and stood forth as the teacher of that inestimable precept "Do unto all men, as you would, they should do unto you." My duty is a distressing one, but I must not shrink from the performance of it.

The sentence of the Court is, that you pay a fine of Rupees 1,000 to our Sovereign Lady the Queen, and that you be imprisoned in the Common Jail of Calcutta, for the period of one calendar month, and that you be further imprisoned till the fine is paid.

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